

**‘Structures, Experiences and
Discourses’: The Middlesex Military
Service Tribunals and their Appellants,
1916-1918.**

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Abstract

The Military Service Tribunals were established following the First Military Service Act of January 1916 to consider applications for exemption from military service by men eligible for conscription. Conscription was not unprecedented in British history, but there was no tradition of military impressment *en masse*. The creation of tribunals was therefore a liberal semi-democratic society's attempt at preserving yet prescribing the boundaries of individual liberties and conscience within the context of a deepening military crisis and the consequent extension and centralisation of state power.

The tribunals were vehemently criticised by contemporaries for being incompetent and tyrannical with appellants, particularly those who sought exemption because of conscience. Early commentaries which emerged after the War and more recent histories have disseminated this view. A revisionist case has been made by other historians who draw attention to mitigating factors such as ambiguous legislation and the enormous caseloads with which the tribunals struggled. The traditional view is found not only within academic studies of the tribunals, but is exclusively the view of popular histories and the Media. Studies of the tribunals at national and local level exist and aspects of the history of the Middlesex Tribunals feature in Rae's study of conscientious objectors (henceforth known as C.O. and C.Os.) and McDermott's national study of the tribunals. However, no specialist study of Middlesex exists whose Appeal Tribunal's documents fortuitously were preserved for future reference by the Ministry of Health.

It is the purpose of this thesis to contribute originally to the study of the history of the tribunals through a specialised study of the Middlesex tribunal system in order to

determine whether it deserves the traditional reputation of the tribunals, or whether a revisionist case can be made. The task of chapter two is to assess how efficient the Middlesex tribunal system was by examining how they were established and what their procedures were. Chapter three will explore to what degree Middlesex appellants found the tribunal system to be hostile by exploring their subjective experiences of making an application or an appeal. A neglected aspect of the experience of objection is the experiences of the tribunalists themselves and this will be the focus of the latter part of chapter three. The application for exemption was made in writing and the hearings were dialogues between tribunalists and appellants. The discourses of exemption are therefore central to the history of the tribunals. Public and tribunal discourses are infamous for their condemnation of conscientious objectors. Chapter four will assess to what extent the public language of Middlesex and the tribunalists' language was condemnatory. This chapter will also conduct an inquiry into the content of C.Os.' written applications as no extensive investigation of the language of conscientious objectors exists. Finally, this thesis will evaluate the opinion that Tribunalists generally were myrmidons of the War Office by examining the politics and work of Herbert Nield, the Chairman of the Middlesex Appeal Tribunal.

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Introduction: The Historical Context, the Tribunals' Historiography, Sources, Methodology and Thesis Outline.

‘The tribunals are appointed to hold the scales of justice evenly balanced between the Army and the men.’ (Herbert Nield, Chairman of the Middlesex Appeal Tribunal’s Second Section).¹

The Coming of Conscription

The implementation of conscription in Britain which necessitated the creation of the military service tribunals was a step-by-step process by which the categories of men compelled to serve were extended in response to military exigencies. The Military Service Act (or ‘Bachelors Bill’) entered the statute books on 27 January 1916 and came into force on 10 February. According to the Act, ‘every single man, ordinarily resident in Great Britain, who had reached the age of 18 but was not yet 41 on 15 August 1915 (and every similarly aged widower without dependent children)² was declared ‘to have been duly enlisted in His Majesty’s regular forces for general service with the Colours or in the reserve for the period of the war, and to have been forthwith transferred to the reserve.’³ Problems in recruiting enough men to meet the needs of offensive strategies and casualties at the front and further pressures on manpower caused by the Easter Uprising in Dublin extended the scope of conscription through the Military Service (Session 2) Act which conscripted married men between 18 and 41.⁴ Greater powers of compulsion were given to the Army under the Military Service (Review of Exceptions) Act of April 1917. Men who had been previously rejected or discharged for medical

¹ Quoted in J. H. Worrall’s *The Tribunal Handbook*, 4th edition (London, 1917), p. 45.

² James McDermott, *British Military Service Tribunals, 1916-1918: A Very Much Abused Body of Men* (Manchester and New York: Manchester University Press, 2011), p. 14.

³ Military Service Act, 1916, 1. (1).

⁴ McDermott, *British Military Service Tribunals*, p. 25.

reasons and those who served with the territorial forces who had been judged medically incapable of foreign service were required to submit to a medical re-assessment by the army medical boards.⁵ With the prospect of American troops arriving on the Western Front in 1918, conscription became less concerned with large-scale recruitment and more with meeting manpower demands in the short-term. Legislation reflected this change in recruitment strategy.⁶ The Military Service Act 1918, which received royal approval on 19 February 1918, 'provided for the cancellation of any exemption offered by reason of a man's occupation...should military exigencies demand it.'⁷ The Act also cancelled the 'two months grace period' given to those whose exemptions for occupational reasons had expired.⁸ Three additional measures extended the conscription net to its furthest reach. The list of certified occupations was revised in January 1918 to make more young men of good health eligible for conscription. On 21 March 1918 the Germans' 'Michael Offensive', designed to win the War before American troops tipped the balance irrevocably in the Allies' favour, was unleashed. To meet this crisis, a royal proclamation on 20 April cancelled all exemption certificates held by men fit for general service under the age of 23. The Military Service (No. 2) Act, 1918, which came into force on 2 May, raised the military age to 51 and provided for the extension of the military age to 56, subject to an Order in Council. The aim was to release younger men on support and garrison duty for the front line. Irishmen were to be conscripted according to the terms of the Act, but for political reasons this was never implemented. The Act also provided for the power by Order in Council to cancel all existing exemptions without reference to the Tribunals. This power was duly exercised on 4

⁵ Ibid., p. 26.

⁶ Ibid., p. 28

⁷ Ibid.

⁸ Ibid.

June when exemptions were withdrawn from all 18-year-olds except for coalminers, dockworkers and men exempted for poor health. To speed up conscription, the head of the National Service Ministry, Sir Auckland Geddes, proposed abolishing the Tribunals and replacing them with county advisory committees that would be easier to influence, but this proposal did not survive the Act's drafting stage. The proposal to expedite tribunal proceedings by abolishing appellants' right to legal representation survived the Bill's Third Reading, but was removed by amendment.⁹

A Tradition of Impressment

Conscription during the First World War was unprecedented in British history in terms of the numbers of men pressed into service, but forced military service was not new to Britain. The Anglo-Saxons who fought at Hastings in 1066 were 'citizen-warriors' who were duty-bound to fight when their kingdom was threatened. Norman feudalism stipulated that each freeman owed military service to his lord. Both sides of the English Civil War dragooned men into the ranks. From the mid-eighteenth century, militia ballots were used to decide who would serve from among the shire's eligible men. However, after the defeat of Napoleon, there was little enthusiasm for compulsion and the Militia Ballot Act was annually suspended from then on. The minor conflicts of the age were conducted by professional troops and the volunteers of the Royal Navy.¹⁰

Late Victorian and Edwardian Militarism

⁹ Ibid., pp. 27-28.

¹⁰ R. J. Q. Adams and Philip P. Poirier, *The Conscription Controversy in Great Britain, 1900-18*, (Basingstoke and London: Macmillan Press, 1987), p. ix-x.

The increasing emphasis on military readiness in the latter part of the nineteenth and early part of the twentieth centuries was provoked by the economic and naval rivalry with the newly unified Germany. Invasion panics gripped the popular imagination which produced and in turn was intensified by ‘invasion literature’. The most famous of all was George Chesney’s *The Battle of Dorking*, published in 1871, which narrates the invasion of an unsuspecting Britain by a German-speaking nation.¹¹ Embedded also in British culture was the archetype of the ‘Christian hero’ who was ready to sacrifice himself for good moral causes and who was an image of the highest form of masculinity.¹² Soldiers were romanticised also in literature as medieval knights whose blood was metaphorically represented as sweet, red wine.¹³ Along with his moral and spiritual qualities, a soldier required physical prowess too. In the second half of the nineteenth century, public schools turned their focus to a more physical training suited to Britain’s expanding imperial role.¹⁴ It was Rupert Brooke’s wartime sonnet ‘Peace’, celebrating the War’s outbreak as a purifying epiphany, which captured this blend of moral, spiritual and physical excellence:

‘Now, God be thanked Who has matched us with His hour
And caught our youth and wakened us from sleeping,
With hand made sure, clear eye, and sharpened power,
To turn as swimmers into cleanness leaping.’¹⁵

Cultural ideals and the ideologies of the elite were not reflected, however, in the physical condition of the masses. Rather than pious warriors, the British working

¹¹ Ian F. W. Beckett, *Britain’s Part-Time Soldiers: The Amateur Military Tradition 1558-1945* (Barnsley: Pen and Sword, 2011), p. 190.

¹² *Ibid.*, pp. 198-199.

¹³ Paul Fussell, *The Great War and Modern Memory* (Oxford: Oxford University Press, 2000), pp. 21-3.

¹⁴ Gerard J. DeGroot, *Blighty: British Society in the Era of the Great War* (London and New York: Longman, 1996), p. 32.

¹⁵ ‘Peace’ in Rupert Brooke, *Collected Poems* (Cambridge: Oleaner, 2010), p. 135.

classes were underfed and in many cases sick and deformed. The poor performance of the British Army in the South African Wars presented the disturbing evidence that the British people were unfit for war and that more needed to be done to prepare them.¹⁶ The Social Darwinist, Benjamin Kidd, added impetus to the panic by drawing the general conclusion that the British race was in decline.¹⁷ Official bodies mulling over the performance of the British Army in the Boer War agreed. The Inter-Departmental Committee on Physical Deterioration published a report in 1904 which described the poor quality of the average national physique¹⁸ and which ‘severely shook many of its readers.’¹⁹ It was common knowledge that 40 to 60 per cent of volunteers for the Boer War had been rejected as physically incapable of service.²⁰ The solution was military training for all British men which would also have the effect of purifying them of what was perceived to be a growing counter-culture of decadence.²¹

Thus, popular, voluntary paramilitary organisations were established to drill youths and inculcate patriotism and discipline. Organisations such as the Boys’ Brigade, the Anglican Church Lads’ Brigade and the Catholic Boys’ Brigade blended military training with piety in what has been termed muscular Christianity.²² The most famous organisation was the Boy Scouts established in 1907 by Sir Robert Baden-Powell, a veteran of the Boer War, whose goals were simple: to reverse the moral and physical

¹⁶ Adams and Poirier, *The Conscription Controversy*, p. 2.

¹⁷ George Robb *British Culture and the First World War* (Basingstoke: Palgrave, 2002), p. 33.

¹⁸ Sir Almeric William Fitzroy, *Report of the Interdepartmental Committee on Physical Deterioration, Volumes 1-3* (London: His Majesty’s Stationery Office, 1904).

¹⁹ Adams and Poirier, *The Conscription Controversy*, p. 6.

²⁰ *Ibid.*, p. 6.

²¹ Robb *British Culture*, p. 33.

²² Adams and Poirier, *The Conscription Controversy*, p. 253.

decline of young men. 'Woodcraft and paramilitary drill' rather than free school meals were according to his philosophy the best way of restoring British virility.²³

For those older males of military age, the revival of the volunteer movement resulted in a significant proportion of the British male population receiving some form of military training and experience prior to the First World War. It is estimated that over 8% of British males between 15 and 49 at the outbreak of the War had served as volunteers at some points in their lives. If the numbers of those who had served in other auxiliary forces, the regular army and those that had received some form of military training are added to the number who had served as volunteers, one finds that in 1898, 22.42% of the entire male population of the UK and Ireland between 17 and 40 had had some current or previous military or quasi military experience.²⁴ Such widespread participation in military and quasi-military forces represented the zenith of Victorian and Edwardian militarism.²⁵

From 1909 and 1911 respectively, the war plans of the Army and Navy were premised on the conclusion that a German offensive against France would require a flanking attack through Belgium and that the British Expeditionary Force would have to be deployed on the French left flank to prevent France's capitulation.²⁶ However, despite an augmented role for British troops in a future continental conflict, the preference for the eager volunteer over the reluctant conscript remained the political consensus and the

²³ Ibid., p. 6.

²⁴ Beckett, *Britain's Part Time Soldiers*, p. 200.

²⁵ Michael Howard, *The Continental Commitment: The Dilemma of British Defence Policy in the Era of the Two World Wars* (London: The Ashfield Press, 1989), p. 198.

²⁶ Ibid., p. 53.

quintessential feature of British militarism.²⁷ The Liberals, who had been out of office for a long time, were reluctant to jeopardise their future election chances by supporting such a controversial policy as conscription which was considered an unwarranted extension of state power.²⁸ The Conservatives had no intention either of risking their unity over conscription and issues such as Ulster Unionism and tariff reform seemed to them to be more pressing.²⁹ The working classes, the trade unions, the Labour Party and the Independent Labour Party³⁰ opposed conscription because they considered poverty, not Germany, as the great enemy.³¹ In such a political climate, the most the National Service League was prepared to campaign for was two months' military training for men of 18 to 22 with two weeks of drill annually over a period of three years.³² Consequently, calls for national service in times of peace and compulsion in times of war were steadfastly rejected by the legislature.³³

In 1914, the decision to rely on volunteers appeared to have been a wise one. Large numbers of men joined the army, sustained by the opportunity to attest through the Householders' Return of November 1914 and a vigorous recruiting crusade designed by 'expert propagandists'.³⁴ By the end of September 1914, 298,923 men had enlisted and before the year was out, it is estimated that 1,186,357 men had enlisted of their

²⁷ Beckett, *Britain's Part Time Soldiers*, p. 199.

²⁸ Adams and Poirier, *The Conscription Controversy*, p. 22.

²⁹ Ibid.

³⁰ Ibid., p. 20.

³¹ Ibid., p. 22.

³² Ibid., p. 11.

³³ Ibid., p. 48.

³⁴ David Lloyd George, *War Memoirs, Volume One* (London: Odham's Press, 1938), p. 429.

volition.³⁵ 2.4 million men in total volunteered for a variety of reasons such as patriotism, the desire to prove their masculinity and to escape unemployment.³⁶

The Problem of Manpower and the 'Shells Crisis'

It became apparent very quickly once war was underway that uncoordinated recruitment robbed war industries of the skilled male labour on which it depended. Vickers, the arms manufacturer, for example, suggested in September 1914 that indispensable men ought to be able to wear badges to protect them from the pressure to join up. By May 1915, the War Office had issued instructions to its recruitment officers not to recruit men from certain industries.³⁷ It was becoming abundantly clear that a much closer and more extensive management of manpower and materiel by which the needs of the army could be balanced against the needs of essential industries was essential.

It was the munitions crisis, or the 'Shells Crisis' as it became sibilantly known in the public imagination, that brought the problem of supply to a head and which prompted the conscription of labour and then the introduction of military conscription. Colonel Repington, a war correspondent, blamed the lack of high explosives for failed British offensives.³⁸ With public attention now focused on the matter, the Government moved decisively to resolve it with new legislation. Once David Lloyd George had successfully explained the rationale of a temporary state oversight of labour to trade union

³⁵ Ian Beckett, 'The British Army, 1914-1918: The Illusion of Change, in John Turner (ed.), *Britain and the First World War* (London: Unwin Hyman, 1988), p. 101.

³⁶ David Stevenson, *1914-1918: The History of the Great War* (London: Penguin, 2012), p.201.

³⁷ Arthur Marwick, *The Deluge* (Basingstoke and New York: Palgrave Macmillan, 2006), pp. 96-97.

³⁸ *Ibid.*, p. 99.

representatives at a series of meetings across the country,³⁹ the new Coalition Government was able to win Parliament's assent to its Munitions of War Bill in June 1915. It established a Ministry of Munitions with Lloyd George at its head to allocate resources for arms production and to protect the arms workforce from further dilution and depletion.⁴⁰ This reform also expedited the Government's conclusion that the sensible allocation of manpower and supplies required more than reliance upon people's sense of duty and readiness to volunteer.⁴¹

It was necessary for the successful management of manpower not only to have control over the deployment of workers, but also to know accurately the total number of men available to work. It was Walter Long's recommendation that there ought to be a survey of the nation's labour reserves.⁴² On 8 July 1915, the Commons voted for the National Registration Act and Lord Curzon successfully championed it through the Lords. It provided for a labour census of the British population in order to know how many people were eligible to work. The labour census, however, was designed by Long and Curzon, both pro-conscriptionists, to serve an additional purpose: it would reveal how many men were not yet in uniform and thus could provide statistical evidence that the volunteer system needed to be replaced with compulsion.⁴³

The labour census took place on 5 August 1915 and it provided Long and Curzon with exactly the data they wanted. The census revealed that in England and Wales there was

³⁹ Lloyd George, *War Memoirs, Volume I*, pp. 154-158.

⁴⁰ Ibid.

⁴¹ James McDermott, 'The Work of the Military Service Tribunals in Northamptonshire, 1916-1918.' PhD diss., University of Northampton (2009), p. 16.

⁴² Ibid., p. 17.

⁴³ Ibid.

just over 5.1 million men of military age. Of the 5.1 million, 1.5 million men were employed in starred occupations and 15 - 25 percent were estimated to be physically and medically unfit for military service. This left between 2.7 and 3 million men who were not in uniform and yet were potential conscripts.⁴⁴

While the shells crisis and the labour census strengthened the case for military conscription, it was the defeats and deadlock of 1915 which made the case seem undeniable. Significantly, on the same day the labour census was taken, the Germans captured Warsaw. On 6 August, the Suvla Bay landings, designed to break the Gallipoli Campaign's deadlock, culminated also in stalemate. More bad news followed: in September, the Loos offensive commenced, but in just over a month, the offensive had stalled with almost 50,000 British soldiers killed.⁴⁵ These crises were magnified by the French Army's slow recovery to full combat strength after having sustained very heavy casualties. It is estimated that by the end of November 1914 alone, 454,000 French troops had been killed.⁴⁶ Further offensives in 1915 meant that the casualty rate remained very high. During the Champagne offensive, 62,505 men either died or disappeared.⁴⁷ Lord Kitchener laid before the Cabinet on 8 October a memorandum called 'Recruiting for the Army' which according to Lloyd George, concluded that the voluntary system was failing to produce enough recruits to maintain the Army's fighting strength and that 130,000 men were needed each month to compensate for the

⁴⁴ Adams and Poirier, *Conscription Controversy*, p. 98; Keith Grieves, *The Politics of Manpower, 1914-1918* (Manchester: Manchester University Press, 1988), pp. 21, 212.

⁴⁵ McDermott, 'The Work of the Military Service Tribunals', p. 17.

⁴⁶ Elizabeth Greenhalgh, *The French Army and the First World War* (Cambridge: Cambridge University Press, 2014), p. 59.

⁴⁷ *Ibid.*, p. 117.

casualty rate.⁴⁸ The decision now facing Britain's legislators was no longer whether to adopt conscription or not, but how it might be introduced to a nation not accustomed to conscription and what form it should take.⁴⁹

Voluntarism's Failure

Having accepted the necessity of conscription, Asquith and his Cabinet nevertheless remained cautious because they were not certain of public opinion. Though the War Policy Committee had reported to Asquith that conscription was the only solution to the growing manpower crisis,⁵⁰ Asquith wished to give the voluntary system one more chance in the form of the Derby Scheme. The Earl of Derby, who coordinated the Scheme and after whom it was named, was a strong advocate of compulsion and made his participation conditional on the introduction of conscription if the Scheme failed. This suited Asquith because he would be able to reassure his backbenchers and the voting public that he had exhausted all possibilities before introducing conscription. Derby, therefore, was appointed Director-General of Recruiting on 5 October 1915 and two weeks later, the Scheme came into being.⁵¹

Using the data accrued by the August census, forms were sent to English, Welsh and Scottish homes asking men between the ages of 19 and 41 years to enlist or to attest to their willingness to serve if required. Those who attested were allocated to 46 groups

⁴⁸ Lloyd George, *War Memoirs, Volume One*, p. 433.

⁴⁹ Robert Douglas, 'Voluntary Enlistment in the First World War and the Work of the Parliamentary Recruiting Committee', *Journal of Modern History*, vol. 42 (1970), p. 579; P. Simkins, 'Kitchener and the Expansion of the Army', in Ian F. W. Beckett and John Gooch (eds.), *Politics and Defence: Studies in the Formulation of British Defence Policy 1845-1970* (Manchester: Manchester University Press, 1981), pp. 103-4.

⁵⁰ TNA/CAB 371/134/3 (Supplementary). Lord Curzon, Winston Churchill and Austen Chamberlain were the co-authors of the report.

⁵¹ McDermott, 'The Work of the Military Service Tribunals', p. 18.

according to age and marital status, with single men without dependants to be called to the Colours first. Royal pressure to attest was applied when the King made a personal appeal for volunteers. Further incentives came in the form of a bounty of 2 shillings and 9 pence and an armband which could be worn as evidence that a man had attested to avoid accusations of cowardice.⁵²

The Derby Scheme met with an inadequate response. Of the 2.2 million single men who had been identified by the August Census as eligible for military service, only 840,000 had attested and not all of these were eligible to fight. More than 500,000 of these were already working in starred occupations and 200,000 were physically unfit for service. Of the estimated 2.9 million married men, around 1.35 million attested, and of these, 450,000 worked in starred professions and 220,000 were incapable of military service. The conclusion was stark: many men were prepared to fight for King and country, but not enough, and if Britain were to have available sufficient numbers of men to prosecute total war, some form of compulsion was necessary.⁵³

Asquith remained reluctant to forego his liberalism and accept this conclusion, but the tide of events were against him. Asquith himself had already committed the Government to some form of large-scale compulsion when he assured the Commons on 2 November 1915 that no married man would be considered for service until the whole

⁵² Adams and Poirier, *Conscription Controversy*, pp. 120-1; Grievies, *Politics of Manpower*, p. 22; Hayes, *Conscription Conflict*, pp. 194-5.

⁵³ Lloyd George, *War Memoirs, Volume II*, p. 726; Adams & Poirier, *Conscription Controversy*, p. 135; Ian F. W. Beckett and Keith Simpson, *A Nation in Arms: The British Army in the First World* (Barnsley: Pen and Sword, 2014), pp. 12 - 13.

supply of single men had been considered.⁵⁴ Military planning added momentum to conscription's introduction: on 6 December, the Allied Conference at Chantilly concluded that the British would need to play a greater part in a war of attrition in the coming months. This would require conscription. Consequently, on 14 December, a Cabinet committee chaired by Walter Long was established to consider a conscription bill. Lord Curzon and Leo Amery were chosen to draft the bill and on 5 January 1916, Asquith presented it to the Commons. On 27 January 1916, the bill became law and came into force on 10 February.⁵⁵

Grounds for Exemption

To soften the impact of what was an unprecedented extension of state power over individual liberties and to assuage liberal consciences and the suspicions of Labour, provision was made by the Act for men eligible for conscription to ask for exemption on certain grounds. This was politically astute, for it was in keeping with the pre-War statutory precedents of allowing exemption from taking oaths, receiving small pox vaccination and participating in Anglican worship and instruction in schools.⁵⁶ The Derby Scheme had already shown some measure of concession to objection by establishing the principle of appeal which allowed for postponements for men whose personal and business interests made an immediate call up impractical.⁵⁷ The Military Service Act expanded the number of grounds on which a man might be exempted. Exemptions could be granted to those men in one or more of the following instances:

⁵⁴ McDermott, 'The Work of the Military Service Tribunals', p. 19.

⁵⁵ Ibid., p. 19.

⁵⁶ Constance Braithwaite, *Conscientious Objection to Compulsions Under the Law* (York: William Sessions Limited, 1995), p. v.

⁵⁷ Rae, *Conscience and Politics*, p. 16.

- a. 'That it was expedient in the national interests that the man should, instead of being employed in the military service, be engaged in other work in which he was habitually engaged; or
- b. that it as expedient in the national interests that the man should, instead of being employed in military service, be engaged in other work in which he wished to be engaged; or
- c. if the man was being educated or trained for any work, on the ground that it was expedient in the national interests that, instead of being employed in military service, he should continue to be so educated or trained; or
- d. that serious hardship would ensue, if the man were called up for Army service, owing to his exceptional financial or business obligations or domestic position; or
- e. by reason of ill-health or infirmity; or
- f. by reason of a conscientious objection to the undertaking of combatant service.'⁵⁸

Exemptions took three forms: absolute exemption in which the man was allowed to play no part in the war effort; exemption conditional on the man performing non-combatant service with the military or civilian work of national importance; and temporary exemption, usually for between a month and six months. Decisions were not permanent, for certificates of exemption could be reviewed and altered at any time.⁵⁹

The Tribunal System

According to John Rae, tribunal procedure tended to be uniform across the nation.⁶⁰ A man's case for exemption was judged by a three-step tribunal system established by the first Military Service Act. His application began with the completion of the exemption form R.41, or R.53 if he was an attested man, which could be procured from the local tribunal or the local recruiting office. The appellant was required to give his name, address, age and his place of work, the nature of his objection and the reasons for it. He then returned it to the tribunal clerk who had responsibility for the tribunal's

⁵⁸ McDermott, 'The Work of the Military Service Tribunals', pp. 20-1.

⁵⁹ Military Service Act, 1916, paras. 2 (3), 3 (I).

⁶⁰ John Rae, *Conscience and Politics* (London: Oxford University Press, 1970), p. 99.

administration. The appellant could either send a written expression of his case or attend the hearing in person which the tribunalists preferred, for they considered talking to the appellant directly provided them with a better chance of judging his sincerity.

Employers had the right to speak on behalf of an employee if they were seeking his exemption for occupational reasons. The appellant also had the right to be represented by legal counsel. A military representative was present to challenge the appellant's case. If the appellant or the military representative was discontented with the hearing's decision, they had three days in which to submit a notice of appeal or form R.43. The appeal tribunal informed the local tribunal from which the case had emanated of its decision. If a man's case were dismissed, he would be conscripted within two weeks. If the appeal tribunal confirmed or varied the local tribunal's decision, it was the local tribunal's responsibility to issue exemption certificate R.39. If the appellant or military representative remained displeased with the outcome of the Appeal Tribunal's hearing, at the discretion of the Appeal Tribunal, they could appeal to the Central Tribunal which was the final court of appeal.⁶¹ As with the criminal courts and sessions in the Houses of Parliaments, the public were allowed to attend hearings. However, in the interests of free, impartial judgement, the chairman of the tribunal committee had the right to remove and exclude spectators who might try to interfere. This was the case sometimes in industrial cities with a strong tradition of left-wing politics, such as Glasgow and Leeds, where supporters of political conscientious objectors sang the Red Flag, interrupted the tribunalists and jeered the Labour Party and trade union representatives as traitors and renegades. However, for the most part, spectators behaved and consisted usually of friends of the appellant rather than hostile agitators. There was no prohibition

⁶¹ McDermott, *British Military Service Tribunals*, pp. 20-22.

of the press and journalists who were more than ready to write accounts of the more controversial hearings for public titillation.⁶² In terms of the type of evidence that was admissible, the tribunals were not required to adhere to judicial rules for 'hearsay and opinion' were acceptable.⁶³ Witnesses were permitted to speak for and against the appellant.⁶⁴

The principle of maintaining the separation of the legislature and the judiciary applied to the tribunals. As the Government were an interested party to the outcome of tribunal cases, the separation was further warranted. Long and the Local Government Board (henceforth known as the L.G.B.) had the supervisory function of ensuring that the tribunals' constitutions and procedures conformed to the law, but beyond that had little influence and no control. Long's opinions were recommendations rather than instructions. Therefore, in a circular to the Local Registration Authorities, Long opined that tribunal committees were to consist of members who were impartial though guided by consideration of national interest. The committees were also to include a representative of the working classes as it was from that section of the population where most conscripts would come. Suitable women could serve on tribunals, but men of military age and those who had publicly expressed opinions that would render them unfair judges were undesirable.⁶⁵ Local authorities adhered to some of Long's recommendation and ignored others. For the most part, Long's view that women ought to serve on tribunals was disregarded. The appointment of a labour representative was a

⁶² Rae, *Conscience and Politics*, p. 99.

⁶³ Ibid., p. 100.

⁶⁴ Ibid.

⁶⁵ Ibid., p. 54.

statutory requirement, but some local authorities ignored this too.⁶⁶ Most importantly, the tribunals were free to decide the cases of appellants that came before them. However, this legitimate judicial freedom was symptomatic of a broader ‘hands-off’ approach on the part of Government which extended to procedure and interpretation of law and which meant that much time was consumed by tribunalists clarifying their responsibilities and how to undertake them.⁶⁷

The Historiography of the Tribunals

Historical Criticism

The tribunal system was established with the best of intentions, but became one of the most criticised aspects of wartime administration.⁶⁸ The tribunals were intended by a liberal government, troubled by its own decision to introduce conscription, as a means of striking the balance between ensuring eligible men served whilst exempting men with legitimate reasons for not serving. Ideally, therefore, the tribunals were in their deliberations to hold in balance the collective responsibility of meeting state and military needs on the one hand and honouring the liberties of individual consciences on the other. Many contemporaries considered the tribunals to have failed. The War Office deemed the tribunals as incompetent and too lenient; the National Service Ministry concluded that the tribunals were too slow in their work and delayed the deployment of fit men; and the appellants censured the tribunals for incompetence also, and denounced them as abusive and behaving as little more than recruiting organs for the military.⁶⁹

⁶⁶ Ibid..

⁶⁷ McDermott, *British Military Service Tribunals*, p. 22.

⁶⁸ Ibid., p. 1

⁶⁹ James McDermott, ‘The Work of the Military Service Tribunals’, p.5.

The Sources' Limitations

Writing within the context of the prevailing view that the First World War was 'stupid, tragic and futile'⁷⁰ and with a sympathy for the underdog in his struggle with military bureaucracy, British historians traditionally have written censorious histories of the tribunals from the perspective of the appellants, and in particular, conscientious objectors. The broad view is that 'the Tribunals were muddled, inconsistent, prejudiced and unjust.'⁷¹ However, the evidence that is available has also shaped this view. The Ministry of Health took the decision in 1921 to destroy most tribunal records, a decision that James McDermott has speculated may have been prompted by the view that the tribunal system had failed and was best forgotten.⁷² It is Karen Hunt's opinion that as the tribunal records contained the personal details of those men who requested exemption, their destruction was ordered to protect their privacy.⁷³ The tribunals are also absent from the War's official histories,⁷⁴ for perhaps the reason McDermott gives. Historians have therefore had to depend upon what sources do exist, and where they do not, or are incomplete, on newspaper reports, the writings and speeches of highly placed critics, memoirs, and biographies that do not provide a balanced perspective.⁷⁵

Newspapers tended to report what was sensational about tribunal hearings which though designed to expose the cowardice of conscientious objectors, provided evidence of the tribunalists' vituperative approach. For example, at a hearing at the Bradford Local

⁷⁰ Adrian Gregory, *The Last Great War*, p. 3

⁷¹ Cyril Pearce, *Comrades in Conscience: The Story of an English Community's Opposition to the Great War* (London: Francis Boutle, 2001), p. 136.

⁷² McDermott, 'The Work of the Military Service Tribunals in Northamptonshire', p.6.

⁷³ Karen Hunt, *Staffordshire's War: Voices of the First World War* (Stroud: Amberley, 2017), p. 7.

⁷⁴ Ibid.

⁷⁵ Ibid.

Tribunal, an appellant, when he declared he would not be prepared to take a German life, even if it meant saving his mother's life, was told that he 'ought to be shot.'⁷⁶

Organisations that supported conscientious objectors reported in detail on those occasions where they deemed the tribunals had failed to give conscientious objectors a fair hearing. The three principle publications responsible for this reporting were the No-Conscription Fellowship's *The Tribunal*, the Independent Labour Party's *The Labour Leader* and the Quaker's *The Friend*. Their reports have given historians further reason to present the tribunals as abrasive and uncaring.

Among the high-placed critics of the tribunals were members of the legislature and their criticisms began at the system's advent. The most well-known and persistent Commons critic of the tribunals was the MP for Blackburn, Philip Snowden, who collected the correspondence of appellants who claimed unjust treatment from the tribunals and the military⁷⁷ and used their contents to illustrate his speeches. Two of those speeches, one made on 22 March 1916 and the other on 6 April 1916, were circulated in pamphlet form.⁷⁸ In those speeches, Snowden described a wide range of abuses by tribunals such as the practice of local tribunals in delaying sending their judgement so that an appellant ran out of time to apply for an appeal.⁷⁹

⁷⁶ Rae, *Conscience and Politics*, p. 106.

⁷⁷ Snowden estimated that in one year he received over 30,000 letters. See Philip Snowden, *An Autobiography, I: 1864-1919* (London: Nicholson and Watson, 1934), p. 406.

⁷⁸ Philip Snowden, *British Prussianism: The Scandal of the Tribunals* (Manchester: National Labour Press, 1916).

⁷⁹ *Ibid.*, p. 5.

Certain prominent memoirs and biographies of the First World War denounced the tribunals for their unjust and heartless treatment of C.Os. Sylvia Pankhurst, for example, concluded that:

‘In most cases the Tribunals refused any form of exemption, and handed the objector to the military authorities to be dealt with as they saw fit.’⁸⁰

The pacifist and absolutist, George Baker, records in his autobiography that when he made his case to his local tribunal at Steadingbourne, he found them ‘fair and reasonable’, but the Canterbury Appeal Tribunal he found ‘very different’. The Appeal Tribunal was presided over by what Baker sarcastically described as ‘a Noble Lord’ who ‘was famous as a cricketer’ and who ‘incontinently disallowed’ Baker’s appeal.⁸¹ James Maxton’s biographer, John McNair, records that Maxton found the Barrhead Local Tribunal to be ‘extremely fair’ and the Chairman, Major Pollock, to be ‘completely impartial’.⁸² Nevertheless, McNair concluded that in general the tribunals were structurally flawed, as they acted as both ‘judge and jury’ and that the tribunal members themselves were incompetent as their age and social class prevented them from understanding conscientious objection.⁸³

⁸⁰ E. Sylvia Pankhurst, *The Home Front* (London: The Cresset Library, 1987), p. 288. For other examples of memoirs that protest the treatment of C.Os., see George Baker, *The Soul of a Skunk: The Autobiography of a Conscientious Objector*; (London: Eric Partridge Ltd, 1930); James Scott Duckers, *Handed Over: The Prison Experiences of Mr J. Scott Duckers, Solicitor of Chancery Lane, Under the Military Service Act, Written by Himself. With Foreword by T. Edmund Harvey* (London: C. W. Daniel, 1917); Edward Grubb, ‘War Resistance: Memoirs of the No Conscription Fellowship by the Treasurer, Edward Grubb’ in Julian Bell (ed.), *We Did Not Fight, 1914-1918: Experiences of War Resisters* (London: Cobden-Sanderson, 1933); Stephen Hobhouse, *Forty Years and an Epilogue: An Autobiography, 1881-1951* (London: James Clarke and Co. Ltd. 1951) p. 142; The London Standing Committee of Christadelphians, *Christadelphians and Military Service* (Clapham: 1918), pp. iii, 37-39, 54, 65-66 and 69-70; Bertrand Russell, *The Autobiography of Bertrand Russell, 1914-1944, Vol. II* (London: George Allen and Unwin Ltd, 1968) pp. 24-25.

⁸¹ George Baker, *The Soul of a Skunk*, pp. 115-117.

⁸² John McNair, *James Maxton: The Beloved Rebel* (London: Allen and Unwin Ltd, 1955), p. 58.

⁸³ *Ibid.*, p. 57.

Historians' Traditional Critique

The traditional criticisms of historians have highlighted the tribunal system's structural inefficiencies, procedural irregularities and partial judgements. Regarding structural inefficiencies, Caroline Moorhead makes the point that the tribunals under the Military Service Acts were intended to be independent judicial committees, and yet many were identical in membership to those that had operated under the Derby System in which they had played the role of securing men for the front.⁸⁴ Moorhead additionally draws attention to the way in which the conscription system was overseen by competing authorities using inaccurate information, thus creating a 'muddle'.⁸⁵ The military register contained errors, and therefore ineligible men were called up by mistake, or when eligible, were not called. The War Office was responsible for the call-up, but the L.G.B. was responsible for exemptions, and the Home Office and the Board of Trade for the provision of alternative work schemes.⁸⁶ Lois Bibbings asserts that the autonomy of the tribunals was further compromised by the fact that the War Office paid the tribunalists' expenses.⁸⁷ In terms of procedural irregularities, hearings were kept short, usually to five minutes or less, which often did not permit a satisfactory examination of applications.⁸⁸ John William Graham, in his early commentary, indicts the tribunals for a wide range of procedural failings. He sees 'little uniformity' in the tribunals' practice;⁸⁹ so whereas the Liverpool Local Tribunal was 'tyrannical', the Manchester

⁸⁴ Caroline Moorhead, *Troublesome People: Enemies of War, 1916-1986* (London: Hamish Hamilton, 1987), p. 31.

⁸⁵ Ibid.

⁸⁶ Ibid.

⁸⁷ Lois Bibbings, *Telling Tales About Men* (Manchester: Manchester University Press, 2009), p. 30

⁸⁸ Moorhead, *Troublesome People*, p. 32.

⁸⁹ John William Graham, *Conscription and Conscience: A History 1916-1919* (London: George Allen & Unwin, 1922), p. 69.

Local Tribunal was ‘judicial and reasonable’.⁹⁰ Other irregularities described by Graham are the refusal to hear cases *in absentia* and those in which someone else represented the appellants.⁹¹ The Scottish anti-militarist, J. P. M. Millar, recorded that his local tribunal sat in private for which no reason was publicly declared.⁹² It is Adrian Stephen’s opinion that the military service representatives were given too much influence over the Derby Scheme’s tribunals, an influence that continued during the conscription era. This influence consisted of playing a part in the tribunal’s discussion once an appellant had stated his case and had left the room.⁹³ Consequently, C.Os. fared badly,⁹⁴ particularly absolutists who were given non-combatant duties rather than the absolute exemption they sought on the belief that it was not possible to award absolute exemption.⁹⁵

The experience of making an exemption has been understood primarily from the perspective of the C.O. and the acrimonious language used against him during his hearing. Contemporary critics and early post-War commentators established the view that the tribunalists and military representatives’ discourses were abusive. We have already noted the example of the Bradford Tribunalists who told an appellant he deserved execution. Many other examples of intimidating and degrading words exist within the early literature. For instance, according to Graham, the Holborn Local Tribunal asked a C.O. the following question: ““Do you ever wash yourself?””⁹⁶ Later

⁹⁰ Ibid.,

⁹¹ Ibid., p. 72.

⁹² J. P. M. Millar, ‘A Socialist in War Time’, in Bell, (ed.), *We Did Not Fight*, p. 228.

⁹³ Adrian Stephen, ‘The Tribunals’, pp. 378-379.

⁹⁴ Ibid., p. 379.

⁹⁵ Ibid., p. 391.

⁹⁶ Graham, *Conscription and Conscience*, p. 70.

historians give further examples of the tribunalists' invective. David Boulton describes how the Chairman of the Ashton-Under-Lyme Tribunal asked an appellant whether he was suffering from 'the conscience that makes cowards of us all'.⁹⁷ Arthur Marwick identifies the source of these attitudes within the middle class conformist nature of the tribunalists who for the most part could not understand why young men wished to play no part in protecting their nation and whose discourse vented their 'hatred, fear and horror at the mounting slaughter on the Western Front' on the 'shirkers' who appeared before them.⁹⁸ Trevor Wilson notes also the 'conformist' attitude of tribunalists whom he also castigates for their 'mean spiritedness' which contrasted with the 'very nobility of some of the applicants for exemption'.⁹⁹ In her comprehensive study of the national discourses used to discuss conscientious objection, Bibbings argues that the hostile language used by tribunalists stemmed from the wider context of Edwardian militarism and masculinity whose precepts pacifism transgressed.¹⁰⁰ Julian White sees such language as part of a wider discourse that aimed to identify and lump together for censure all those deemed unworthy for not playing their part in the war effort. He asserts that 'strikers, shirkers and profiteers, as well as "conchies", "peace-bleaters", "cuthberts" and even the apparently harmless "knuts" (well-dressed young men)' were disparaged as traitors.¹⁰¹

⁹⁷ David Boulton, *Objection Overruled* (London: MacKibbon & Kee, 1967), p. 125.

⁹⁸ Marwick, *The Deluge*, p. 121.

⁹⁹ Trevor Wilson, *The Myriad Faces of War: Britain and the Great War, 1914-1918* (Cambridge: Polity Press, 1986), p. 398.

¹⁰⁰ Bibbings, *Telling Tales about Men*, pp. 11-14.

¹⁰¹ Julian White, *Words and the First World War: Language, Memory, Vocabulary* (Bloomsbury: London and New York, 2017), p. 227.

Popular analyses of the experiences and languages of exemption have perpetuated the view that C.Os. were routinely excoriated by tribunalists and military representatives. Anne Kramer argues that ‘partiality and bullying were legion’¹⁰² and summarises the type of language used against C.Os. in three words: ‘cads, cowards and shirkers’.¹⁰³ Among many specific examples,¹⁰⁴ Will Ellsworth-Jones records how the Military Representative at the Gower Local Tribunal asked one appellant ‘if he had ever been in a lunatic asylum’ and told another that he was a ‘traitor’ and ‘only fit to be on the point of a German bayonet.’¹⁰⁵ According to the journalist, Jeremy Paxman, ‘many a panel chairman’ boasted ‘noisily that he would allow no ‘shirkers’ to escape.’¹⁰⁶

As with complaints about the tribunals’ inefficacy and inconsistency and the tribunalists’ intemperate language, criticisms of the narrow tribunal memberships arose early in their history. On 24 February 1916, Snowden asked Long if he was aware that in the ‘majority of cases’ local tribunals were defying the L.G.B.’s instructions by not appointing labour representatives, female tribunalists and the sort of tribunalists who would give conscientious objectors a just consideration.¹⁰⁷ Long replied that his circular letter of 3 February had consisted of advice rather than instructions as to the composition of the tribunals and that the appointment of the local tribunals had been left to the discretion of local government. It was therefore not right for him ‘to interfere with

¹⁰² Anne Kramer, *Conscientious Objectors of the First World War: A Determined Resistance* (Barnsley: Pen and Sword, 2014), p. 46.

¹⁰³ *Ibid.*, p. 45.

¹⁰⁴ Will Ellsworth-Jones, *We Will Not Fight: The Untold Story of World War One’s Conscientious Objectors* (London: Aurum, 2008), pp. 68-79.

¹⁰⁵ *Ibid.*, p. 78.

¹⁰⁶ Jeremy Paxman, *Great Britain’s Great War* (London: Penguin 2014), p. 152.

¹⁰⁷ ‘LOCAL TRIBUNALS’, H.C. Deb. 24 February 1916 vol. 80 c. 791.

their discretion' unless there were 'very strong reasons for doing so.'¹⁰⁸ Long's reluctance to interfere with the tribunal memberships was not only a consequence of respect for local government autonomy, but also because the sort of people local governments were selecting for the tribunals were the very sort of solid and reliable figures Long wanted in the first place.¹⁰⁹

Traditionally, commentators and historians have sided with Snowden rather than Long over the matter of tribunal memberships. Writing in 1919, the pacifist and anti-conscriptionist C. H. Norman summed up both the local and appeal tribunalists as having 'no special qualifications' and 'usually men in local politics.'¹¹⁰ Graham concluded that the tribunalists were 'local notables' who had served under the Derby Scheme or were Labour Party members who supported the War.¹¹¹ According to Snowden, the tribunalists were mainly 'aged men who had made themselves notorious in the recruiting campaign.'¹¹² Adrian Stephen sums up the tribunalists as 'grocers, haberdashers and retired colonels'¹¹³ who were 'untrained to stand aside from their own prejudice, and hold their judgements in suspense while they considered difficult evidence.'¹¹⁴ John McNair summarises the tribunalists as 'business men over military age.'¹¹⁵ Later historiography has echoed these conclusions using words reminiscent of Snowden, Norman and Graham. Boulton describes the tribunalists as 'for the most

¹⁰⁸ Ibid.

¹⁰⁹ John Rae, *Conscience and Politics*, p. 58.

¹¹⁰ C. H. Norman, 'The Advent of Conscription' in *The No Conscription Fellowship 1914-1919* (London: Adelphi, 1919), p. 35.

¹¹¹ Graham, *Conscription and Conscience*, p. 68.

¹¹² Snowden, *An Autobiography, Volume One*, p. 403.

¹¹³ Stephen, 'The Tribunals', p. 384.

¹¹⁴ Ibid., p. 381.

¹¹⁵ McNair, *James Maxton*, p. 58.

part...elderly worthies-the butchers, the bakers and candlestick makers of the local community.’¹¹⁶ Marwick succinctly sums up the tribunalists as ‘solid local worthies’.¹¹⁷ Bibbings is less generous: she describes those staffing the local tribunals as ‘a mixed bag of worthies’.¹¹⁸ The underlying criticism of all these descriptions is that the men (and a few women) who served on the tribunals were prisoners of their prejudices and were too provincial in their culture to deal with appellants whose viewpoints and situations laid outside their frames of reference.

This view that the tribunalists were people of limited judgement is echoed in popular history where the emphasis is placed upon their small-town narrowness through the epithet ‘local’. Ellsworth-Jones writes in the same terms as Marwick by calling the tribunalists ‘local worthies’.¹¹⁹ Paxman too defines the tribunalists as ‘local worthies’.¹²⁰ Ian Hislop’s documentary, *Not Forgotten: The Men Who Wouldn’t Fight*, supplies a welcome synonym to the repetitious ‘worthies’ with the plural noun ‘dignitaries’,¹²¹ though follows tradition by describing the dignitaries as ‘local’.¹²² Andy Ward’s narrative of two brothers who were conscientious objectors, Leonard and Roland Payne, supplies a third synonym, that of ‘local notables’.¹²³ Kramer notes that age and class distanced the tribunalists from appellants for she describes tribunalists as ‘elderly local magnates’.¹²⁴ Burnham notes the almost exclusive male membership of

¹¹⁶ Boulton, *Objection Overruled*, p. 123.

¹¹⁷ Marwick, *The Deluge*, p. 121.

¹¹⁸ Bibbings, *Telling Tales About Men*, p. 30.

¹¹⁹ Ellsworth-Jones, *We Will Not Fight*, p. 64.

¹²⁰ Paxman, *Great Britain’s Great War*, p.150.

¹²¹ Hislop’s documentary was broadcast on Channel 4 on 9 November 2008.

¹²² Ibid.

¹²³ Andy Ward, *Conchies: The Uncomfortable Story of the Payne Brothers: Conscientious Objectors in the First World War* (Kibworth Beauchamp: Matador, 2015), p. 125.

¹²⁴ Kramer, *Conscientious Objectors*, p. 42.

the tribunals and their high standing in their local communities, though she calls into question the validity of their reputations by placing the word ‘upstanding’ in quotation marks.¹²⁵

The Revisionist Case

A revisionist approach, however, challenges the above traditional conclusions by presenting the tribunal system sympathetically without denying some of its flaws. On the matter of prejudiced hearings and acrimonious language, Rae concedes that ‘a minority of Tribunals were contemptuous in their treatment of conscientious objectors’¹²⁶ and that commitment to the national cause characterised the attitude of local tribunalists,¹²⁷ but he observes that even severe critics, such as Snowden and R. L. Outhwaite, admitted that many tribunals had sought to do their duty impartially.¹²⁸ According to Rae, when tribunalists were rude, the cause was sometimes exhaustion caused by the workload and ‘increasing impatience with the attitude of the conscientious objectors themselves’ which was considered often to be self-righteous.¹²⁹ Rae quotes Judge Mellor, an Appeal Tribunal and local tribunal chairman who stated he had begun with sympathy for the C.O., but ‘the result of six weeks sitting is to take my sympathy away altogether.’¹³⁰ Being lectured at by a young man clearly was not going to ingratiate the middle-aged men of the tribunal committees.¹³¹ The impression that the tribunals were uniformly abusive was created, in Rae’s opinion, by the way insults were

¹²⁵ Karyn Burnham, *The Courage of Cowards: The Untold Stories of First World War Conscientious Objectors* (Barnsley: Pen and Sword Books, 2014), p. 35.

¹²⁶ Rae, *Conscience and Politics*, p. 109.

¹²⁷ *Ibid.*, p. 57.

¹²⁸ *Ibid.*, p. 109.

¹²⁹ *Ibid.*, p. 110.

¹³⁰ *Ibid.*

¹³¹ *Ibid.*, p. 56.

reported widely not only by journals in support of C.Os., but also by the local, regional and national press looking for an entertaining story. He gives as an example the Chairman of the Nairn Appeal Tribunal in Scotland who was reported as saying that C.Os. were ‘the most awful pack that ever walked the earth’.¹³² Such widespread reporting created the impression that insult was the ‘norm’.¹³³ Gregory opines that the tribunals were more moderate in their language about C.Os. than general public opinion. He refers to Cartmell’s testimony that as Chairman of the Preston Local Tribunal, he received many letters from the local community demanding that C.Os. be pressed into service. Gregory’s conclusion is that the general public were ‘much quicker to judge their neighbours as shirkers than the men on the bench.’¹³⁴

Consistent with his view of the tribunals as institutions protective of individual liberties *vis-a-vis* the state,¹³⁵ Gregory concludes that ‘the tribunals were a safeguard against the tyranny of public opinion.’¹³⁶ Keith Robbins accepts that in ‘many instances’ the Tribunals were ‘invariably harsh, obscurantist and insensitive’, but is of the opinion that this view ignores the problems posed to tribunalists of understanding the permutations of conscientious objection which the tribunalists were ‘trying conscientiously to accommodate and understand its basis.’¹³⁷ McDermott’s study of the military service tribunals, which is the most recent addition to the historiography, adopts a similarly balanced view. His study of the Northamptonshire Tribunals reveals that they ‘largely

¹³² Ibid., p. 120.

¹³³ Ibid., p. 109.

¹³⁴ Adrian Gregory, ‘Military Service Tribunals, 1916-1918’ in Jose Harris (ed.), *Civil Society in British History: Ideas, Identities, Institutions* (Oxford: OUP, 2007), p. 187.

¹³⁵ Ibid., pp. 177-178.

¹³⁶ Ibid., p. 187.

¹³⁷ Keith Robbins, ‘The British Experience of Conscientious Objection’ in H. Cecil and P. Liddle (eds.), *Facing Armageddon* (Barnsley, 1996), p. 694.

reflected contemptuous prejudices' and there were occasions of heated exchanges between tribunalists and conscientious objectors. However, he concludes that the certificates of exemption offered to conscientious objectors were 'not more circumscribed than those provided on other grounds'.¹³⁸

Turning now to the matter of the tribunals' composition, Rae's study confirms that local tribunals 'reflected the character of local government at the time'¹³⁹ and were 'middle class'¹⁴⁰ and consisted of 'public men'¹⁴¹ and predominantly tradesmen.¹⁴² Rae draws no conclusions from this as to whether the background of the local tribunalists limited their efficiency. His study demonstrates, however, that tribunalists were not exclusively local men. The Appeal Tribunals consisted also of public men, but men of higher standing. Therefore, rather than the local solicitor and the Justice of the Peace, the Appeal Tribunal attracted King's Counsels and judges.¹⁴³ Such men had received the best education that British society provided and so were probably less limited in their cultural horizons. Contrary to Snowden's accusation to Long that there was a lack of working representation on the panels, Rae concludes that it was 'common practice' for appointments of labour representatives to be made after consultation with the District Trades and the Labour Council.¹⁴⁴

¹³⁸ McDermott, *British Military Service Tribunals*, p. 6.

¹³⁹ Rae, *Conscience and Politics*, p. 55.

¹⁴⁰ *Ibid.*, p. 57.

¹⁴¹ *Ibid.*, p. 59.

¹⁴² *Ibid.*, p. 55.

¹⁴³ *Ibid.*, p. 59.

¹⁴⁴ *Ibid.*, p. 56.

The most revisionist historians of the tribunals are Gregory and McDermott. Looking beyond the administrative failings, which are found in all organisations, and the errors and injustices of hearings, they identify what the tribunals came to symbolise within a wartime culture that was becoming increasingly authoritarian and regulated from the centre by statute. Rather than a disadvantage, Gregory interprets the local nature of tribunals as preventing them from being ‘anonymous and centralized’, but rather ‘intimate’ and ‘highly personal’. For Gregory, they were the public spaces where ‘the right of the individual were judged against the demands of the nation within a set of rules’ and where other competing interests, such as those of ‘organized labour, industrial employers, commerce, landowners’, were judged with a view to satisfying public perceptions of equity and justice. In terms of their attitude to their work, tribunalists operated with ‘a full awareness of the desperate seriousness of their task.’¹⁴⁵

Through his national history of the tribunals, McDermott has come to revisionist conclusions also. His research reinforces some of the criticisms that have been made regarding the tribunals’ militarist prejudices against conscientious objectors,¹⁴⁶ but moderates this criticism by recognising that the early period of harshness was due to legislative ambiguity.¹⁴⁷ McDermott notes the divergence between tribunals with some admittedly continuing the recruiting and processing roles they had had under the Derby Scheme with others trying to be more progressive in recognising the need to exempt in cases such as only sons and last surviving sons.¹⁴⁸ If the tribunal system sometimes broke down it was because tribunals were sovereign bodies made so by ambiguous

¹⁴⁵ Gregory, ‘Military Service Tribunals, 1916-1918’, pp. 189-90.

¹⁴⁶ McDermott, *British Military Tribunals*, p. 6.

¹⁴⁷ Ibid.

¹⁴⁸ Ibid., p. 5.

legislation that was open to interpretation.¹⁴⁹ The consequence of this was that local tribunals' idiosyncrasies affected the smoothness of their relations with appeal tribunals.¹⁵⁰ Particularly revisionist is McDermott's conclusion that the tribunalists were not old-style Edwardian militarists whose privileged origins led to a disdain for the masses who appeared before them. Instead, the tribunalists came to understand that 'compulsion was a social contract requiring the visible demonstration of fairness in its implementation.'¹⁵¹ Neither were they recruiting institutions for the hard-pressed military. Rather, the tribunalists generally took the view of James Gribble, the former soldier and tribunalist, who warned a military representative that he and his fellow members 'sat in the interests of the people and not...of the military.'¹⁵² The tribunals therefore, as Herbert Nield stated they ideally should, did indeed hold the scales as evenly as they could between the individual seeking exemption and the military seeking his conscription.

The Middlesex Appeal Tribunal within the Historiography

The Middlesex tribunal system appears in the historiography primarily through the history of its Appeal Tribunal because the evidence within the Middlesex archive is most abundant for this Tribunal. Rae and McDermott make most frequent and detailed reference to the Appeal Tribunal in their work. They present the Appeal Tribunal as one of the more severe tribunals in its dealings with conscientious objectors. Rae writes how the Appeal Tribunal, typically of many tribunals, took the view that if a C.O. could not present his case logically, he therefore was not sincere. To expose a conscientious

¹⁴⁹ Ibid., p. 4.

¹⁵⁰ Ibid.

¹⁵¹ Ibid., p. 229

¹⁵² Ibid.

objector's illogic, the Appeal Tribunal had as one of its stock questions for conscientious objectors the following: 'Would you fight to save your property or women-folk at home from attack?'¹⁵³ Both Rae¹⁵⁴ and McDermott¹⁵⁵ note that the Appeal Tribunal decided to deny Christadelphians conscientious objector status in contradiction of the Central Tribunal's decision to recognise their pacifism. McDermott lists other groups which the Appeal Tribunal autonomously denied conscientious objector status to: Bible students, international socialists and those merely claiming to be Christians from exemption.¹⁵⁶ This decision McDermott contrasts with the 'relatively enlightened adjudication of conscientious claims' by the Northampton Borough Local Tribunal.¹⁵⁷ Rae and McDermott describe further examples of the Middlesex Appeal Tribunal's severity. Rae points to the Appeal Tribunal's decision not to award absolute exemptions to conscientious objectors, something he states was common for tribunals to do.¹⁵⁸ According to McDermott, the Appeal Tribunal additionally created a further obstacle for conscientious objectors which was not statutorily required: on 21 June 1916, the Appeal Tribunal required of conscientious objectors performing work of national importance a monthly report to prove they were still employed.¹⁵⁹ In contrast to the Northampton Borough Local Tribunal's decision normally to exempt the only sons of widows, the Middlesex Appeal Tribunal was prepared to dismiss such cases.¹⁶⁰ McDermott concludes that appeal tribunals generally did not uphold conscience cases that had been dismissed at local level, but never dismissed cases outright. However, of

¹⁵³ Rae, *Conscience and Politics*, p. 106.

¹⁵⁴ *Ibid.*, p. 114.

¹⁵⁵ McDermott, *British Military Service Tribunals*, p.48.

¹⁵⁶ *Ibid.*, p.48.

¹⁵⁷ *Ibid.*

¹⁵⁸ Rae, *Conscience and Politics*, p. 119.

¹⁵⁹ *Ibid.*, p. 62.

¹⁶⁰ *Ibid.*, p. 78.

the 577 conscience cases heard by the Middlesex Appeal Tribunal, 406 were dismissed outright.¹⁶¹

However, in revisionist fashion, McDermott acknowledges redeeming features of the Appeal Tribunal's practice. Middlesex was according to McDermott typical in its sensitivity to the needs of local agriculture and demonstrated a marked degree of independence on this matter from the influence of its Military Service Representatives whose priority was ensuring a plentiful supply of recruits.¹⁶² In medical matters, Middlesex was at its most merciful. The Appeal Tribunal formed a poor view of the military and civilian medical boards and led the criticism of the Mill Hill Board. On 25 July 1918 alone, for example, the Appeal Tribunal gave 147 men leave to challenge their diagnoses.¹⁶³

A Specialist Study of the Middlesex Experience

Alongside McDermott's study of the Northamptonshire Tribunals, specialist studies of countywide and local tribunals exist.¹⁶⁴ However, surprisingly in the light of the relative abundance of sources for the Middlesex Tribunals, no specialised study has been made of them. Rae and McDermott's conclusions about Middlesex concern exclusively the Appeal Tribunal, but not the local tribunals. Moreover, their study of the Appeal Tribunal is part of a broader study of the tribunals nationally and not a study of the

¹⁶¹ McDermott, *British Military Service Tribunals*, p. 56.

¹⁶² *Ibid.*, p. 130.

¹⁶³ *Ibid.*, p. 191.

¹⁶⁴ For specialist local and county-wide studies of tribunals other than McDermott's study of Northamptonshire, see e.g., Ivor Slocombe, *First World War Tribunals in Wiltshire* (Devizes, Wiltshire: Wiltshire Family History Society, 1997); Ivor Slocombe, *The First World War Tribunal in Swindon* (Devizes, Wiltshire: Wiltshire Family History, 1997); Phil Spinks, 'The War Courts: The Stratford Upon Avon Borough Tribunal 1916-1918', *Local Historian*, 32, 4 (2002), pp. 210-217.

Middlesex Appeal Tribunal in its own right. Their conclusions therefore provide a general framework within which to think about the Appeal Tribunal, but not a history of the Middlesex system's finer details.

A Statement of Objectives

This thesis is a specialised study of the Middlesex tribunal system and its thematic motif is reputation. The traditional view of the tribunals has undermined their reputation with the claims they were inefficient and partial, whereas the revisionist stance has to a certain degree restored it. It is our present concern to assess whether the Middlesex Tribunals deserves the reputation of incompetence and partiality or whether McDermott's revisionist characterisation of the Appeal Tribunal as a mixture of harshness with conscientious objectors and leniency with agricultural and medical appeals is a better interpretation. It is the purpose of this thesis not only to test these conclusions, but also to assess the autonomy, efficiency and ethos of the Middlesex Tribunals from the hitherto unexplored perspectives of the subjective experiences of Middlesex appellants, the language of exemption and a case study of one of the Appeal Tribunal Chairmen, Herbert Nield.

An Overview of Chapter Two

To assess the Middlesex Tribunals efficiency, this thesis will first explore its structural and procedural qualities. Determining the yardstick of success and failure is not straightforward. As McDermott rightly asks, were the tribunals to be judged as to whether they had efficiently processed enough men for the Army, protected local economies against the conscription of indispensable civilian labour, or had dealt

humanely with appellants, or a combination of all three?¹⁶⁵ That such a variety of success criteria can be applied to the tribunals reveals the wide range of demands and expectations placed upon them. To decide one criterion from among these criteria is impossible, as all three were indispensable qualities of good tribunals. To present them all as true measures of competence ignores the idiosyncratic ways in which individual tribunals determined what counted for them as competence.¹⁶⁶ Moreover, to judge the tribunals according to all three criteria might subject them to contradictory expectations for the efficient processing of men for the Army could have meant denying local economies of much needed labour and dealing humanely with appellants may have entailed delaying their call-up, or denying them altogether to the Army.

An index of competence which can be applied to all tribunals and which the Middlesex tribunalists would have agreed to as an index of their efficiency is what might be termed administrative efficiency. To determine how administratively efficient the Middlesex system was, it is necessary to ask this: what measures did the Middlesex Tribunalists take before and during their time in office to process cases fairly and promptly (whether to exempt or to make available to the Army); maintain effective working practices with the local tribunals; and prevent the system's collapse beneath the enormous caseload they anticipated?

In examining the organisation of the Middlesex system, this thesis will also test another of McDermott's hypotheses: that the tribunals nationally enjoyed significant sovereignty and autonomy. Chapter two will argue that the Middlesex system, like the

¹⁶⁵ McDermott, *British Military Service Tribunals*, p. 219.

¹⁶⁶ *Ibid.*, p. 30.

tribunals generally, struggled to manage its caseload at times and there are many examples of administrative errors on the part of both the Appeal and local tribunals. However, any inefficiency was not for want of trying, for the Appeal Tribunal at its inception sought advice from the Central Tribunal and the Surrey Appeal Tribunal as how best to manage its work and made a series of important decisions to ensure that the system worked well, not only for the tribunalists but also for appellants. Though at times dangerously stretched, the system never ceased to function because of the tribunalists' preparedness to work long hours. Problems were also caused by the failure on the part of military representatives to follow procedure, but military representatives were answerable to local army committees and not members of tribunals.

As for McDermott's sovereignty thesis, which characterises the tribunals as 'near-independent bodies',¹⁶⁷ whose policies 'grew entirely from within',¹⁶⁸ it will be seen that in terms of their case decisions, each of the Middlesex tribunals was indeed sovereign. But whereas McDermott denies that there was anything such thing as a tribunal 'system',¹⁶⁹ with regards to the Middlesex Tribunals, it is possible to delineate an administrative system on a provincial level in which the Appeal Tribunal acted as an advisor to the local tribunals and laid down certain administrative routines and standards to which it expected the local tribunals to conform.

An Overview of Chapter Three:

¹⁶⁷ Ibid.

¹⁶⁸ Ibid., p. 4.

¹⁶⁹ Ibid., p. 30.

Due to what is available in terms of evidence, much of chapter three will concern the experiences of those making appeals and of the Appeal Tribunalists. However, there is sufficient evidence to draw some conclusions about the experience of making an application to local tribunals and the way in which local tribunalists experienced their work. The experiences of the tribunalists have received much less attention than those of the appellants within the historiography, and this chapter will help to redress some of the imbalance by placing a focus on this issue. It aims not only to judge how appellants experienced the application and appeal processes and how the tribunalists experienced their work through the analysis of statistical data such as the outcome of hearings and the number of cases heard, but also to reconstruct the experience of exemption through non-quantitative factors such as how appellants and tribunalists chose to describe their experiences. This chapter will discuss the experiences of C.Os., but will try to avoid a disproportionate focus on this group by exploring the experiences of those appealing on non-conscience grounds. The drama of the hearing has certainly captured the imaginations of historians, but to understand the experience of exemption holistically, this chapter will evaluate appellants' experiences through the lens of a three-part process: the preparation for the hearing; the hearing; and the hearing's decision with its consequences.

It will be the first contention of this chapter that for a large number of men, the process of applying for exemption at local tribunal level was dissatisfying, for 8791 appellants appealed. What proportion of appellants were not content with their local tribunal cannot be estimated, for the numbers making applications across Middlesex to the local tribunals is not recorded. With regards to those who appealed, around 55% of cases

were dismissed with C.Os. proportionately most likely to have their appeal dismissed and those appealing on medical grounds proportionately most likely to have their appeal granted. The chapter's second contention is that of those who received exemption, the Appeal Tribunal chose to strike a balance between individual and military needs by awarding temporary exemption of three to four months to non-conscience appeals, whereas with COs, who for the most part sought work of national importance, the Appeal gave the majority the least they could be awarded: exemption from combatant duty only. A general picture is therefore emerging of an Appeal Tribunal favouring certain categories of appellant, trying to hold the scales evenly between the needs of non-conscience cases and the military's demand for men, and treating conscience cases with severity. Once exempted, a man was expected to play his part in the war effort sacrificially which could mean, for instance, working 50 miles from home on a farm and submitting monthly reports to prove he was still gainfully employed. However, this chapter will argue that the Appeal Tribunal acted reasonably with those prepared to participate in the war effort by, for example, giving men extensions to deadlines to find work.

The experience of exemption needs also to be told from the perspective of the tribunalists which is something that has been neglected, though not wholly ignored within the historiography. Chapter three will present the evidence that the local tribunalists were burdened severely by their workload and dismayed at the numbers of men passed as medically fit by the Army and civilian medical boards. As for the Middlesex Appeal Tribunalists, they experienced the pressure of a burgeoning workload and the complexities of frequently changing legislation. Public criticism, exhaustion,

confusion and frustration were often the tribunalists' experience. But, so too was a sense of pride that they had done their duty, something they had expected all appellants to do. Though these experiences are those of the Appeal Tribunalists, it is not unreasonable to assume that the local tribunalists shared in them also.

An Overview of Chapter Four

Chapter four concerns the language of objection. The focus of historians has been on the tribunalists' language when judging conscience cases, but chapter four takes a much broader approach. By the language of objection, the chapter refers to three sets of discourses: the public discourses of Middlesex which provided the cultural context within which the tribunals operated; the language used by the tribunalists when questioning conscientious objectors; and the language used by conscientious objectors when presenting their case in their application papers and at their hearings.

Chapter four will first examine the nature of Middlesex's public discourses and assess to what extent they conform to Lois Bibbings' typology of national discourses on the subject of conscience. Though studies of the language of C.Os. and tribunalists within local settings exist,¹⁷⁰ no study of Middlesex's public discourses exists. It will proceed to a study of the Appeal Tribunalists' discourses and the language of those few local tribunals that appear in the newspaper record and assess how far they reflected public discourses, or managed to adopt a neutral stance. Finally, it will explore the language of the C.Os. themselves. A systematic study of their language which groups their discourses according to their theologies and political and moral ideologies is

¹⁷⁰ See, for example, Cyril Pearce, *Comrades in Conscience*, pp. 134-49.

surprisingly absent within the historiography. The language of the tribunalists overshadows theirs. The chapter concludes that in the matter of language, Middlesex's public discourses were hostile to C.Os. generally and that the tribunalists' language reflected this, in particular when examining absolutists. A number of local tribunals were responsible for some long and very intimidating interrogations of absolutists. As for C.Os.' discourses, the great majority were religious, though there were a small number of political and moral objectors. The fundamental tension within the language of religious objectors was their sense of obligation to God's command not to kill over and above their duties as citizens of a nation at war. For political and moral objectors, the challenge was convincing the tribunalists they had a legitimate position. What unites all C.Os., both religious and secular, is their high view of the value of humans, both friend and enemy. Beneath their spiritual and profane values was a unifying humanism.

An Overview of Chapter Five

Chapter five is a case study of Herbert Nield, the Chairman of the Appeal Tribunal's Second Section. Whether from a traditional or a revisionist perspective, the tribunalists have been studied as a group rather than as individuals with the focus on their social origins and their attitudes to appellants. Individual tribunalists are named within historical texts, but are not the subject of study themselves.¹⁷¹ One memoir written by a Tribunalist exists: H. Cartmell's memoir, *For Remembrance*.¹⁷² Gregory, who uses this source most extensively, uses it not as the means of investigating Cartmell as a single

¹⁷¹ McDermott, for example, refers to sixty-three tribunalists and tribunal clerks, including the two Chairmen of the Middlesex Appeal Tribunal, William Regester and Herbert Nield, but these references are part of a general study of the tribunals rather than biographical studies of individuals. For the index of names, see McDermott, *British Military Service Tribunals*, pp. 251-2.

¹⁷² H. Cartmell, *For Remembrance* (Preston: George Toulmin and Sons Ltd, 1919).

Tribunalist, but as ‘the best description of a Tribunal in operation, as seen from the bench.’¹⁷³ Though some of Cartmell’s personality comes through in Gregory’s analysis, such as his dry humour when dealing with appellants, Gregory’s general focus is upon the types of appellant who appeared and the education that the Preston panel received in how the working classes lived in their district.¹⁷⁴ General statements about groups of people are a valid, essential part of historical judgement, but when general statements obscure variations and exceptions within the group studied, they become problematic rather than helpful. What therefore adds accuracy to general statements is the study of subgroups and individuals within the group.

It is this chapter’s argument that an individual study of a tribunalist is thus long overdue. The chapter’s revisionist conclusion is that though in certain ways Nield’s ideology, attitudes and behaviour conform to the traditional hostile picture of a tribunal member, he nevertheless in other ways significantly challenges this picture. The study of one tribunalist cannot challenge decisively the traditional view of tribunalists as a prejudiced, incompetent group, and neither should it necessarily do so if such a view is correct. What this chapter seeks to do is encourage further studies of individual tribunalists in order to build a more accurate and nuanced picture of this ‘very much abused body of men’.¹⁷⁵

The Sources Available

¹⁷³ Adrian Gregory, *The Last Great War: British Society and the First World War* (Cambridge: CUP, 2008), p. 105.

¹⁷⁴ Ibid.

¹⁷⁵ McDermott, *British Military Service Tribunals*, p. 1.

For the Appeal Tribunal, there is a rich range of sources available. The most useful for present purposes are the minute books of the committee's meetings, the statistical returns of cases, the military representatives' returns of cases, the case papers of conscientious objectors and the Appeal Tribunal correspondence with the L.G.B., the Committee for Work of National Importance, recruiting officers, appellants and the public. Though the records of the local tribunals appear no longer to exist, their correspondence with the Appeal Tribunal does and this sheds light into the relationship between the Appeal and local tribunals. National, provincial and local newspaper reports of the Middlesex tribunals provide further data, though these sources need to be interpreted in the light of the propensity of journalists to select sensational events to report and therefore they provide a highly selective impression of the tribunals. This investigation will also conduct a case study of the Appeal Tribunalist with the highest public profile-Herbert Nield. The sources available for Nield are plentiful too, comprising his parliamentary speeches in the *Hansard* record, newspaper reports, his appearance in the Appeal Tribunal's Minute Books and his correspondence as an MP and as a tribunalist.

A Summary So Far

Through the study of a relatively plentiful store of evidence and from the analytical perspectives of structures, experiences and discourses, a picture will be presented of the Middlesex tribunal system that lends credence to both traditional criticisms of the tribunals and revisionist interpretations. The Middlesex system experienced administrative errors, but despite the twin pressures of legislative ambiguity and workload, the system did not collapse, but continued to function, often simply due to the

tribunalists' readiness to work very long hours. With regards to conscientious objectors, the Middlesex system deserves its reputation for particular harshness, but from the perspective of non-conscience appellants there is evidence of an enlightened attitude on the part of tribunalists. Though unable to empathise with C.Os., within the context of those cases where appellants were prepared to play a part in the war effort, or clearly were unable through no fault of their own, the Middlesex system attempted with some success to perform a balancing act between the needs of the individual and the state's demands in what was to become the 'first people's war'.¹⁷⁶

¹⁷⁶ J. M. Winter, *The Experience of World War I* (London: Papermac, 1989), p. 18

Chapter Two: The Middlesex Tribunal System: Its Provenance, Organisation and Policies.

It is the aim of this chapter to present how the Middlesex tribunal system came into existence and how it was organised and functioned. It is this chapter's contention that the tribunals were sovereign judicially, but administratively there was a system, albeit a decentralised one, in which the Appeal Tribunal acted as an advisor rather than as a supervisor of the local tribunals and sought in its dealings with them to preserve their autonomy. In terms of efficiency, the system was hampered by ambiguous legislation and workload, but the system managed to keep up with the flow of cases through the capacity of the tribunalists for work and the procedures that were implemented in anticipation of the workload.

The Appointment of the Appeal Tribunal Members

The life of the Middlesex Appeal Tribunal began with the appointment of its members. According to Rae, First World War tribunals enjoyed a marked degree of autonomy through 'an absence of central control'.¹⁷⁷ The choice of who served on the county-wide Appeal Tribunals was therefore a decision for the counties and once the selection had been made, it was the responsibility of the L.G.B., and possibly Long himself, to ratify the decisions.¹⁷⁸ On 26 February 1916 Long gave his approval to the men selected for the Middlesex Appeal Tribunal in a letter to the County Council Chairman, William Regester, whose own name was in the approved list. Long also instructed Regester to arrange the Tribunal's first meeting and let the members know the time and date. The

¹⁷⁷ Rae, *Conscience and Politics*, p. 53.

¹⁷⁸ *Ibid.*, pp. 58-9.

Council Chairman was also instructed to ensure, if possible, that at the first meeting a Tribunal Chairman and a Secretary, or provisional Secretary if need be, were appointed and their names forwarded to the L.G.B. Further evidence of the level of self-government the tribunals enjoyed is demonstrated through Long's request that the Appeal Tribunal determined at its first meeting the preliminary arrangements for its procedure.¹⁷⁹ Regester acknowledged Long's letter and informed him that he had summoned the first Appeal Tribunal to meet on Thursday 9 March at 4 pm, though as shall be seen, the first meeting occurred a week earlier on 2 March. Long had promised to send details of the powers and duties of the Tribunal and Regester requested that these be provided in time for the Tribunal to consider at their first meeting.¹⁸⁰

The names of the Tribunalists were listed in Long's letter as follows:

'Viscount Enfield, J.P. of 5 St James' Square, London,
Henry Burt, J.P., of 15 Albert Court, Kensington Gore,
Cecil Fane de Salis, J.P., of Dawley Court, Uxbridge,
James Lyne Devonshire of 10 Egerton Gardens, Chelsea,
John Hurdus Dobson, 120 The Avenue, Bruce Grove Tottenham,
Philip Hewlett, 141 Wakeman Road, Willesden,
William Balkwell Luke, J.P., of Leinster Lodge, Kilburn,
Herbert Nield, K.C., M.P., of Bishop's Mead, The Bishop's Avenue, East Finchley,
William Regester, J.P., of 13 Crofton Road, Ealing,
Montagu Sharpe, D. L., J.P., of Brent Lodge, Hanwell.'¹⁸¹

The membership of the Appeal Tribunal demonstrates how closely Middlesex County Council adhered to Long's recommendations in choosing its members, but also how it

¹⁷⁹ TNA MH 47/121/2: Letter from Walter Long to the Chairman of the County Council of Middlesex, 26 February 1916.

¹⁸⁰ TNA MH 47/121/2: Letter from the Chairman of the County Council to the Rt. Hon. W. Long, M.P., re. Appeal Tribunal for the County of Middlesex, 29 February 1916.

¹⁸¹ TNA MH 47/121/2: Letter from Walter Long to the Chairman of the County Council of Middlesex, 26 February 1916. The list of names is also recorded in TNA MH 47/121/2: 'Names of Persons appointed by His Majesty for service on the Appeal Tribunal for the county of Middlesex.' The list is undated, but it accompanied a letter from the Local Government Board dated 26 February 1916, confirming the names on the list had been appointed to the Appeal Tribunal.

diverged. In his letter to the Chairmen of County Councils and Mayors, Long had recommended that a minimum of seven and a maximum of ten appeal tribunalists be appointed and that such people ought to be 'of judicial and unprejudiced mind and temperament' with at least one member who had legal expertise. To reassure organised labour that the interests of working class appellants would be catered for, Long requested that the tribunals had a healthy representation on behalf of labour and thought it advisable that the panels consisted of women and representatives of commerce and business.¹⁸² Long's notion of tribunal perfection was therefore a fair and impartial tribunal which represented, as best a panel of seven to ten members can, the range of occupational, class and gender interests of the population.

In terms of the number of tribunalists, the Appeal Tribunal consisted of ten members, which was the maximum Long recommended. Middlesex could have chosen less or more as there appears to be significant variations in the number chosen by a range of appeal tribunals. In his study of the Northamptonshire Appeal Tribunal, McDermott has discovered it possessed seventeen members.¹⁸³ The Essex Appeal Tribunal numbered 21 Members.¹⁸⁴ The Lancashire Appeal Tribunal consisted remarkably of 38 Members!¹⁸⁵ It is Rae's opinion that to fulfil Long's minimum recommendation that at least one tribunal member ought to be a legal expert, local tribunals chose Justices of the Peace and solicitors, whereas the more prestigious appeal tribunals selected barristers and judges. His evidence for this assertion comes from Scottish appeal tribunals rather than

¹⁸² Rae, *Conscience and Politics*, p. 58.

¹⁸³ McDermott, 'Work of the Military Service Tribunals in Northamptonshire', p. 28.

¹⁸⁴ 'NEW DISTRICT TRIBUNALS', *The Times* (11 March 1916), p. 17.

¹⁸⁵ 'Lancashire Appeal Tribunal', *The Guardian* (24 March 1916), p. 6.

English ones.¹⁸⁶ The Middlesex Appeal Tribunal fits Rae's picture for Herbert Nield, who became the Chairman of the Appeal Tribunal's Second Session, was King's Counsel. The Appeal Tribunal, however, went well beyond Long's minimum recommendation of one tribunal member with legal expertise by appointing six justices of the peace. The Appeal Tribunal clearly was attempting to ensure a high level of legal expertise with which to tackle its unprecedented task by proper understanding of the legislation and rendering fair judgement.

Though Rae associates the tribunal membership of justices of the peace with local tribunals rather than appeal tribunals, the Middlesex Appeal Tribunal was not unique in relying upon the legal knowledge of magistrates and solicitors as well as that of barristers and judges. The Northamptonshire Appeal Tribunal consisted of 'a barrister and several justices of the peace' and 'co-opted the services of a solicitor, Christopher Smyth.'¹⁸⁷ Other appeal tribunals such as those of the County of Bedford, Cambridge and the Isle of Ely and Essex possessed no King's Counsels, but numbered J.Ps. among their memberships.¹⁸⁸ The inclusion of so many men, whether magistrates, J.Ps., barristers and solicitors, with some form of courtroom experience suggests that county notables responsible for the selection of appeal tribunalists saw the correct interpretation of the Military Service Act and its impartial application as the essential standard of the appeal tribunal's work.¹⁸⁹ The voluntary nature of tribunal work and the public-spirited opportunity to serve their nation perhaps also appealed to those who had already shown themselves willing to work voluntarily as magistrates.

¹⁸⁶ Rae, *Conscience and Politics*, p. 59.

¹⁸⁷ McDermott, 'The Work of the Northamptonshire Military Service Tribunals', p. 27.

¹⁸⁸ 'NEW DISTRICT TRIBUNALS', *The Times* (11 March 1916), p. 3.

¹⁸⁹ TNA MH 47/142/1/1: R. 36, L.G.B. Circular to Local Registration Authorities, 3 February 1916.

As stated earlier, it was Long's recommendation to the Appeal Tribunals that they had representatives of the working class in their membership. Some local and appeal tribunals chose not to appoint a working class representative because their middle class members considered such men to be out of place in their midst.¹⁹⁰ The Middlesex Appeal Tribunal did not consist of a fair proportion of labour representatives, but it did possess one representative called John Hurdus Dobson who came from a skilled working class background. He had been an engine driver for twenty-four years, an occupation he had left in 1890. He was by 1899 the organising secretary of the Amalgamated Society of Railway Servants for in that role he testified as to the causes of accidents to railway employees at a meeting of the Royal Commission on Accidents to Railway Servants on 12 July 1899.¹⁹¹ Hurdus Dobson was an excellent choice to represent labour interests on an appeal tribunal panel. He was a working class man who had a record of trade union experience and who possessed a sufficient level of education and committee experience to make him an effective tribunalist.

Hurdus Dobson may very well have been acquainted with James Lyne Devonshire, the Tribunalist who appears to have been appointed to represent commercial interests. According to the National Portrait Gallery where Lyne Devonshire's dignified visage may be seen, he was the Vice-President of Tramways, Light Railways and the Transport Association during the time he was a tribunalist and for which he was knighted.¹⁹² Lyne

¹⁹⁰ Rae, *Conscience and Politics*, pp. 56-57.

¹⁹¹ 'Royal Commission on Accidents to Railway Servants', *The Times* (Thursday 13 July 1899), p. 8.

¹⁹² The five portraits the National Portrait Gallery has of Lyne Devonshire can be viewed online at <https://www.npg.org.uk/collections/search/person/mp80140/sir-james-lyne-devonshire> (accessed 21 May 2017 at 20:50).

Devonshire's knowledge of the transport industry and its manpower needs was perhaps one of the reasons he was selected. It would enable him to help the Appeal Tribunal judge better appeals for exemptions based upon an appellant's employment in the transport network that was at the heart of the highly urbanised county of Middlesex and the Appeal Tribunal's jurisdiction that encompassed parts of north and west London. In keeping with the absence of female tribunalists from the great majority of appeal and local tribunals,¹⁹³ the Middlesex Appeal Tribunal was a male preserve and in this respect had deviated from Long's desire that women played their part. Why the Middlesex elite did not choose a woman is unknown, but the all-male membership reflected the patriarchal nature of county politics and perhaps, though there is no clear evidence that this was the case, it may have also prompted by the argument used at the time that women would be 'too sentimental and kind-hearted' to be impartial tribunalists.¹⁹⁴

In his analysis of the composition of local and appeal tribunals, Rae notes that whereas local tribunals 'reflected the character of local government at the time' and so consisted of tradesmen,¹⁹⁵ appeal tribunalists were 'representative of the shire halls' and so were composed of county councillors.¹⁹⁶ County councillors certainly dominated the Middlesex Appeal Tribunal, as seven of the ten members were indeed county councillors. This is revealed in the appeal case of E. S. Marten. It was decided at the Appeal Tribunal's committee meeting on 26 June 1916 that the appeal represented a clash of interests for those members who were county councillors. (Unfortunately, the

¹⁹³ Rae, *Conscience and Politics*, p. 56.

¹⁹⁴ Ibid.

¹⁹⁵ Ibid., p. 55.

¹⁹⁶ Ibid., p. 59.

minutes do not specify what those clashes of interests might have been and Marten's appeal papers no longer exist within the archive.) It was resolved that only those members of the Appeal Tribunal who were not members of the County Council ought to hear the case. Of the ten members, only three could hear the case: Lyne Devonshire, Hewlett and Balkwell Luke.¹⁹⁷

Rae is right to assert that appeal tribunalists were of a higher social and professional standing than those selected for the local tribunals. However, though he identifies the peers who served as the Chairmen of the Central Appeal Tribunal, which was the highest appeal tribunal in the land,¹⁹⁸ Rae does not mention that the status of the appeal tribunals when compared to the local tribunals was enhanced by the consistent presence of aristocrats on their panels. The Duke of Bedford headed the list of Members of the Bedford Appeal Tribunal.¹⁹⁹ The Appeal Tribunal of Northamptonshire was able to boast of two peers of the realm, Luke White, third Baron Annaly and Alfred William Maitland Fitzroy, Earl of Euston, who joined the panel in 1918.²⁰⁰ The Middlesex Appeal Tribunal was distinguished by the membership of a local peer, Edmund Henry Byng, Viscount Enfield. Byng was a J.P., a member of the Stock Exchange who demonstrated an interest in engineering through his associate membership of the Institute of Civil Engineers. His celebrated uncle, Sir Julian Byng, was an officer in the Tenth Royal Hussars who had been knighted for his distinguished service throughout

¹⁹⁷ TNA MH 47/5/1: Minutes Book 1, 26 June 1916.

¹⁹⁸ Rae, *Conscience and Politics*, p. 59.

¹⁹⁹ 'NEW DISTRICT TRIBUNALS', *The Times* (11 March 1916), p. 3.

²⁰⁰ McDermott, *The Work of the Northamptonshire Military Service Tribunals*, p. 27.

the Empire and who was serving on the Western Front.²⁰¹ The presence of peers reflected not only the role of such people in provincial politics, but probably also the desire to ensure that the Appeal Tribunals possessed the necessary level of prestige and confidence to deliver autonomous judgements and resist pressure from interested parties to those judgements.

If a tribunalist resigned, it was the responsibility of the tribunal to find his replacement, though it was Long's prerogative, as it was with the original selection of the tribunalists, to approve or reject the replacement. In addition, the tribunalist's resignation letter had to be sent to the L.G.B.²⁰² The only man to resign from the Middlesex Appeal Tribunal, which says something for the conscientious adherence to duty of the other members, was William Balkwell Luke, which he did in November 1916. The reason is unknown as his letter of resignation no longer exists and the reason is not noted in the Appeal Tribunal's minutes. Most likely Balkwell Luke could not combine the duties of a tribunalist with his occupation. Charles A. Buckmaster was the man who replaced Balkwell Luke. Buckmaster confirmed that he was able to attend tribunal hearings for the required two afternoons a week, but could not attend Saturday afternoon meetings as he was 'engaged at the Science Museum' in South Kensington.²⁰³ In his letter seeking Long's approval for the appointment of Buckmaster, Regester recommended Buckmaster on the basis that he was an Inspector of the Board of Education, a brother of the Lord Chancellor and most importantly, had affirmed that he was able to attend

²⁰¹ Cyril Arthur Player, 'British Commander at Cambrai Well Known as "Byng the Goer"', *The Charlotte News* (4 September 1917), p. 10.

²⁰² TNA MH 47/121/12: Letter from the Joint Secretaries to the Assistant Secretary to the Local Government Board, 1 December 1916.

²⁰³ TNA MH 47/121/12: Letter from Charles Buckmaster to Mr Regester, 2 December 1916.

tribunal meetings.²⁰⁴ The L.G.B. approved of Buckmaster's appointment on 20 December 1916 and wrote to Ernest Hart, the Tribunal Secretary, asking him to inform Buckmaster when the next Tribunal meeting would take place.²⁰⁵ Buckmaster duly made his first appearance at an Appeal Tribunal hearing on 2 January 1917.²⁰⁶

The Role of the Joint-Secretaries

The Joint-Secretaries managed the Appeal Tribunal's paper work and their role was multifaceted. They were responsible for arranging the date and time of the appeal hearings and providing for those hearings appellants' case papers. They drew up the agendas for committee meetings and handled the Tribunal's correspondence. The Secretaries to the Middlesex Appeal Tribunal were selected once the Tribunalists had been ratified by Long. Regester instructed the Clerk to the Middlesex Joint Standing Committee to write to Balkwell Luke asking him whether he would sanction the appointment of Walter Austin and Ernest Hart as the Tribunal's secretaries. Both men were natural choices for the post for Austin was the County Clerk of the Peace and Hart was his Deputy.²⁰⁷ Austin was also the Clerk to the County Council.²⁰⁸ Balkwell Luke clearly gave his approval for Austin and Hart announced their appointment to all Middlesex's local tribunals on 4 March 1916, stating that their appointment had been made on 2 March 1916. In their letter, Austin and Hart announced that the Appeal

²⁰⁴ TNA MN 47/121/12: Letter from William Regester to the Right Honourable Walter Long, M.P., 5 December 1916.

²⁰⁵ TNA MH 47/121/12: Letter from the Assistant Secretary to the Local Government Board to E.S. Hart, 20 December 1916.

²⁰⁶ TNA MH 47/121/12: Letter from the Joint Secretaries to C. A. Buckmaster, Esq., 27 December 1916.

²⁰⁷ TNA MH 47/121/2: Letter from the Clerk to the Middlesex Joint Standing Committee to W. B. Luke, Esq., 29 February 1916.

²⁰⁸ TNA MH 47/121/3: Letter from Walter George Austin, Clerk of the County Council to unnamed correspondent, 31 January 1916.

Tribunal was open for business by requesting that at 'their earliest convenience' the local tribunals should forward appeals against their decisions and furnish the Appeal Tribunal with the names and addresses of the military representative attached to their Tribunal, or the military representative sitting in their district.²⁰⁹

The Administrative Staff

Austin and Hart were aided by an administrative staff whose names are revealed through the records of payment they received. The Appeal Tribunal and the Secretaries drew upon the services of a core group of five administrators whose names appear consistently in the committee's minutes. They were named as Messrs Hughes and Edwards and Miss MacEwan, Miss March and Miss Curwen. Other names appear in the record as the Tribunal took on more administrators perhaps to deal with the burgeoning caseload or to perform specific tasks. It is symptomatic of the self-regulating nature of the tribunals that not only did they decide whose services they would draw upon and how many administrators they would have at any one time, but how large and how frequently paid the administrators would be. The sums of money are not particularly large which is consistent with the fact that the tribunal system was a voluntary one and the payments were honorariums. Payments were made for between six and nine months' of service at a time and ranged between the handsome sum of £50 awarded to Mr Hughes²¹⁰ and the very modest £1 awarded each to Ernest Hart and Mr Poundall.²¹¹ The first set of payments was authorised at a Tribunal committee meeting on 20 December

²⁰⁹ TNA MH 47/121/3: Letter from Joint Secretaries to the Appeal Tribunal for the County of Middlesex to the Secretary, Local Tribunal, 4 March 1916.

²¹⁰ TNA MH 47/5/6: Minute Book 6, 10 April 1918.

²¹¹ TNA MH 47/5/5: Minute Book 5, 19 July, 1917.

1916 for services rendered during that year.²¹² The second payment was made with the Tribunal's approval to 'Members of the Staff' who had given clerical assistance from the 8 December 1916 to 30 June 1917.²¹³ On 2 January 1918, the Appeal Tribunal approved a third set of payments to 'Members of Staff' for their clerical assistance from June to December 1917.²¹⁴ The last record of payment was for 11 July 1918.²¹⁵ In total, as far as the existing records suggest, seventeen administrators aided the Secretaries and the Tribunalists in their work. Though the Tribunal and Secretariat were exclusively male and most of the administrative staff was male, seven women provided important clerical assistance, with three of those women providing their services for what appears to have been the duration of the Appeal Tribunal's existence.

The Appeal Tribunal's Expenses and Compensation

All tribunalists were unpaid volunteers, but they were permitted to claim for expenses occurred in the course of their duty. Over this, they had no control for it was the Army Council that determined the rate of payment. Command paymasters had the authority to remunerate 'general tribunal expenses on a scale tied to the number of applications decided per month'.²¹⁶ Such a system has been identified as one of the factors that gave the military significant influence over the tribunals' decisions.²¹⁷ No details of how much the Middlesex Appeal Tribunalists received in expenses appear to have survived in the archive, but there is one entry within the minutes for a committee meeting on 1

²¹² TNA MH 47/5/3: Minute Book 3, 20 December 1916.

²¹³ TNA MH 47/5/5: Minute Book 5, 19 July, 1917.

²¹⁴ TNA MH 47/5/5: Minute Book 5, 2 January 1918.

²¹⁵ TNA MH 47/5/7: Minute Book 7, 10 July 1918.

²¹⁶ TNA MH 47/142/4/1: ACI No. 431 Financial Arrangements for Local Tribunals and Appeal Tribunals, February 1916.

²¹⁷ Bibbings, *Telling Tales About Men*, p. 30.

May 1916, at which a cheque for £24.1.1 was presented for the fees due to the Tribunal for the month of March. Fees therefore were received as monthly payments. Such a sum of money was not a large one for a tribunal of ten men which suggests that the Appeal Tribunalists did not incur large expenses in carrying out their duties. The Appeal Tribunalists had 'practically no claims as regards travelling expenses' as the Appeal Tribunal met at the Guildhall in Westminster where most of the Tribunalists worked as county councillors.²¹⁸ It was Austin's responsibility to set up and administer the bank account into which cheques were paid.²¹⁹

Money from the military came not only in the form of remuneration, but from the beginning of 1917 in the form of compensation for work hours lost. At a Committee meeting on 2 January 1917, the Joint-Secretaries reported on the Army Council Instruction regarding the payment of tribunalists. Payment would be made to those members who by attending meetings lost work time. The rate payable was one shilling per hour for time lost in going to, attending and returning from meetings. Application for payment was to be made to the Paymaster General of the Eastern Command. Payment was only made if there had been an actual wage loss. The Middlesex Insurance Committee also paid members for their loss of remunerative time where because of attendance at meetings they had necessarily lost salary or wages. The rate of pay was set at three shillings and sixpence for every complete half day of lost wages and salaries. A member had to sign a certificate to verify that he had lost income through his work for

²¹⁸ TNA MH 47/122/10: Letter from the Joint Secretaries to the Clerk of the Appeal Tribunal for Cumberland, 5 September 1917.

²¹⁹ TNA MH 47/5/1: Minute Book 1, 1 May 1916.

the tribunal.²²⁰ These additional sources of money enhanced the effectiveness of the tribunal system by reducing the absence and resignation of members because of employment obligations and financial loss.

Though the financial relationship between the tribunals and the Army Council is one of the reasons given for the accusation that the relationship between the two was too close and prevented tribunal impartiality,²²¹ it appears that on financial matters the tribunals possessed a certain degree of independence and room for negotiation. One financial issue arose because many appeals for exemption, which had not been dealt with under the Derby Scheme, were now the responsibility of the new appeal tribunals. The Central Tribunal wrote on 23 March 1916 to the clerks of all the appeal tribunals informing them that it had taken up the matter of the scale of payment for expenses in connection with these cases. The Central Tribunal had argued that the ordinary scale used by appeal tribunals was not appropriate for these cases as they were sent in a batch and expected to be decided more quickly than cases brought under the Military Service Act in order to clear the backlog. On this matter, the Army Council was prepared to concede and agreed that these cases would be charged for separately and that the first 25 cases would each be charged at 2 shillings and 6 pence. For each appeal after 25, tribunalists would be reimbursed with 1 shilling. To identify when they had dealt with these type of cases, the appeal tribunals were expected to claim for these cases separately from other

²²⁰ TNA MH 47/5/3: Minute Book 3, 2 January 1916.

²²¹ Rae, *Conscience and Politics*, pp. 62, 63.

expense claims and that these cases should be identified by being called ‘appeals remitted by the Central Appeal Tribunal’.²²²

The Military Service Representatives

The War Office and the interests of the military were represented on the appeal and local tribunals by a military representative who had the responsibility to challenge appellants’ cases and the judgements reached by tribunals through the appeal process. The Middlesex Appeal Tribunal’s first Military Representative was Captain Bax whose appointment was acknowledged by the Tribunal on 20 March 1916²²³ and who continued to serve with the Appeal Tribunal until his resignation on 31st December 1917 due to poor health.²²⁴ As the Middlesex Appeal Tribunal sat in two sessions, it gained an additional Military Representative called Captain Carter whose partially surviving correspondence exists in the MH 47 archive.²²⁵

The Middlesex Appeal Tribunal not only heard objections to appeal cases by its own Military Representatives, but also received observations on appeal cases from the military representatives of the local tribunals from which the cases originated. A memorandum sheet called Army Form C. 348 was used to record these observations. Some local military representatives showed a particularly keen interest in the outcome of appeal cases and in ensuring that they had done their best to ensure a favourable outcome for the military. In the case of John Kent, the Military Representative for the

²²² TNA MH 47/121/3: Letter From I. A. Gibbon of the Central Tribunal to the Clerks of Appeal Tribunals, 23 March 1916.

²²³ TNA MH 47/5/1: Minute Book 1, 20 March 1916.

²²⁴ TNA MH 47/5/5: Minute Book 5, 2 January 1918.

²²⁵ TNA MH 47/119/73: Miscellaneous Letters and Papers, Captain Carter, Military Representative.

Acton Local Tribunal, it was his desire that his observations be read aloud at the Appeal Tribunal and that he be informed of the days and times the appeal cases would be heard. These requests were included by the Acton Local Tribunal in its correspondence with the Appeal Tribunal.²²⁶ What the Appeal Tribunal's response was is not known for the archive contains no response.

Military representatives kept a record of his tribunal's decisions and reported these each week to the local recruiting officer on Form W.3281. As the Middlesex Appeal Tribunal scheduled hearings for Monday, Tuesday and Wednesday,²²⁷ the footnotes to W.3281 stipulated that Bax and Carter sent their weekly report at the latest by the Thursday night post.²²⁸ However, as the Appeal Tribunal sometimes had to schedule additional hearings to cope with the caseload, there were some variations as to what constituted the end of the week. For example, a report was submitted for the week ending Saturday 5 May 1917.²²⁹ Not long after that, a new format was introduced for Form W3281 which standardised the week as ending on Saturday and the first report to be sent using the new format was Saturday 16 June 1917.²³⁰

²²⁶ TNA MH 47/123/1: Memorandum from John Kent, Military Representative to the Acton Local Tribunal to the Joint Secretaries of the County Appeal Tribunal, Army Form C. 348, 11 March 1916.

²²⁷ TNA MH 47/5/1, Minute Book 1, 28 March 1916.

²²⁸ TNA MH 47/143/1/1: Army Form W.3281, Report by Military Representative for the Appeal Tribunal of Middlesex for week ending 29 March 1916.

²²⁹ TNA MH 47/143/1/1: Form W3281, Report by the Military Representative for Appeal Tribunal of Middlesex for week ending 5 May 1917.

²³⁰ TNA MH 47/143/1/1: Form W3281, Report by the Military Representative for Appeal Tribunal of Middlesex for week ending 16 June 1917.

Bax soon found inadequate the W3281's simple structure and limited categories for reporting the greater variety of decisions that the Middlesex Appeal Tribunal made. The form provided no section in which the military representative could record the number of cases adjourned, withdrawn or allowed to go forward to the final stage of appeal at the Central Tribunal. Bax, resolved this problem by recording such information in the section titled 'Remarks on Appeal Cases'. This became the procedure from the second week of reporting-Wednesday 5th April 1916-until the military's bureaucracy finally caught up with the problem and issued a more detailed proforma for use for the week ending 23 December 1916.

The Agricultural Representative

It was at the same meeting at which Captain Bax was announced as the Appeal Tribunal's Military Representative that Arthur Perkins was declared the Agricultural Representative for the Board of Agriculture and the Middlesex War Agricultural Committee.²³¹ Perkins was also the representative of the Middlesex War Agricultural Committee. At the meeting at which Perkins was declared the Agricultural Representative, it was decided that as the Appeal Tribunal had two sections, agricultural cases would be the responsibility of section one. Due to the small agricultural economy of Middlesex, Perkins did not attend all appeal hearings, but only attended as and when agricultural cases arose. Both the Middlesex War Agricultural Committee²³² and the Appeal Tribunal Joint Secretaries²³³ would inform him by letter when his services were

²³¹ TNA MH 47/5/1: Minute Book 1, 20 March 1916.

²³² See e.g., TNA MH 47/121/8: Letter from the Honorary Secretaries of the Middlesex War Agricultural Committee to A. Wm Perkins, agricultural representative of the Middlesex Appeal Tribunal, 3 August 1916.

²³³ See e.g., TNA MH 47/121/9: Letter from the Joint Secretaries to A. Wm. Perkins, 22 September 1916.

needed. These letters told Perkins of the time and date of the hearing, the appellants' names, and if the appellant was an employer, the name of both employer and employee. Brief details were given about the employee's role and the size and nature of the farm on which he was employed. In the case of the self-employed farmer and smallholder, the same details were provided. Letters from the Agricultural Committee's letter furnished additionally the farm's address. Perkins therefore had an introduction to the cases he was to hear, but his decision of course was expected only after he had had access to the case papers during the hearing.

Managing the Workload

Once Regester had been appointed as Chairman at the Appeal Tribunal's first committee meeting on 2 March 1916, the Tribunal turned its attention to reviewing the advice the Joint Secretaries had solicited from the Central Tribunal and the Surrey Appeal Tribunal on how to organise themselves in order to manage the caseload that was awaiting them.²³⁴ The fact that the Middlesex Appeal Tribunalists sought advice on how to be efficient demonstrates their conscientious adherence to doing their best. It was certainly not their desire to be incompetent, something that the enemies of the tribunals accused them of being. That the Appeal Tribunal was able to select from the advice it received supports McDermott's sovereignty thesis in that it demonstrates how much scope tribunals had in establishing their organisational structures and procedures for hearings.

²³⁴ TNA MH 47/5/1: Minute Book 1, 2 March 1916.

From the Central Tribunal, the Middlesex Appeal Tribunal wished to know what number of cases it ought to anticipate. In its memorandum, the Central Tribunal advised that on the basis of its experience, around 10% of cases that came before local tribunals became appeal cases. To calculate how many cases would constitute 10%, Austin and Hart contacted the Middlesex County Recruiting Committee who informed them that there were about 90,000 men of military age in Middlesex who wished for some sort of exemption. The joint-secretaries concluded therefore that the Appeal Tribunal could be required to deal with 9000 men, though that number might be smaller as some of these men's appeals were based on the request to be regarded as working in starred occupations.²³⁵ This was a remarkably accurate estimation as the Appeal Tribunal's statistics reveal that in total 8791 men appealed their local tribunal decisions.²³⁶ The Tribunal was informed that already 225 cases were waiting to be heard by them and the percentage of appeals was expected to increase above the 10% with the call up of the later groups, particularly the married men. The Secretaries warned the Tribunalists further that though each of the courts of the Central Tribunal managed to deal with 50 to 60 cases a day, the Appeal Tribunal was unlikely to match that number. The difference according to the memorandum was that the Central Tribunal did not hear the appellants present their case, but read through case papers and made their decision, whereas in the cases that came before the an appeal tribunal, all interested parties were liable to be heard and cross-examined, thus necessitating a greater investment of time in each case.²³⁷

²³⁵ Ibid.

²³⁶ TNA MH 47/143: Middlesex Appeal Tribunal, Statistics of Cases.

²³⁷ TNA MH 47/5/1: Minute Book 1, 2 March 1916.

With such a warning of a heavy workload ahead, the Appeal Tribunal resolved a number of organisational principles to enable it to manage efficiently its work. As if to ensure a standardised, common approach, a sense of unity and perhaps even to calm initial nerves regarding the new responsibility that faced them, the Tribunalists resolved that the first meeting of the Tribunal to hear cases would be a meeting of the whole Tribunal.²³⁸

At a committee meeting on 20 March, it was decided that to expedite proceedings and make the anticipated caseload manageable, the Appeal Tribunal would, as the Central Tribunal was doing, meet in two sections. Burt's motion that under Regester's chairmanship, Balkwell Luke, Hewlett, Sharpe and de Salis would serve on the First Section and that with Nield as Chairman, Viscount Enfield, Devonshire, Burt and Hurdus Dobson would serve on the Second Section was unanimously agreed. No reason was given in the committee minutes for the rationale behind who was to serve with whom, but on reflection, it looks as if the Appeal Tribunal was seeking to ensure that each section had its fair share of talents, experiences and viewpoints. Whereas Section One had four JPs, Section Two balanced this with two JPs and a King's Counsel. Three county councillors served on Section One whereas four served on Section Two. The presence of Viscount Enfield on Section Two was balanced by the presence of Hurdus Dobson, the railway trade unionist. Whereas Regester gave prestige as Chairman of the County Council to Section One, Nield the MP gave prestige as Chairman to Section Two. To enable business to be conducted in the absence of Tribunalists so as to prevent delay and an accumulation of unheard cases, it was resolved that the quorum for a

²³⁸ Ibid.

whole Tribunal meeting would be five and that the quorum for its two sections would be three.²³⁹ As noted during the discussion of the Military Representatives' weekly reports, it was decided that hearings would be conducted on Monday, Tuesday and Wednesday of every week.²⁴⁰

As the Central Tribunal judged appeal cases by reading through the case papers alone and therefore could work more quickly, the Appeal Tribunal sought advice on how best to expedite proceedings from the Surrey Appeal Tribunal who like Middlesex, would be faced with the time-consuming task of interviewing appellants.²⁴¹ So detailed was the letter sent by Ramsay Nares, the Clerk to the Surrey County Council, it was resolved at the committee meeting of 16 March 1916, that each of the Appeal Tribunalists would receive a copy of it.²⁴²

In his letter, Nares began by describing the 'Scheme', which was the plan to divide Surrey and Croydon into three sections. According to Nares, unlike Middlesex, which remained a single jurisdiction, the L.G.B. had decided that the Surrey tribunal district would comprise 'the administrative county of Surrey with the associated county borough of Croydon.' To manage such a large geographical area with a significant population density and in order to put the Surrey Appeal Committee in easier reach of appellants, the Railway and Road facilities of Surrey suggested that the district ought to be divided into three areas: the eastern side of the county with the local tribunal sitting in Croydon, the northern sector with the local tribunal sitting in Kingston and the

²³⁹ TNA MH 47/5/1: Minute Book 1, 20 March 1916.

²⁴⁰ TNA MH 47/5/1: Minute Book 1, 28 March 1916.

²⁴¹ TNA MH 47/5/1: Minute Book 1, 13 March 1916.

²⁴² TNA MH 47/5/1: Minute Book 1, 16 March 1916.

western sector with Guildford as the location of the local tribunal. Consequently, an appeal tribunal of 18 members chaired by Sir Lewis Dibdin was established capable of staffing three committees that each dealt with the appeals coming from one sector and which possessed the necessary qualifications or representing the spectrum of interests stipulated by the L.G.B. To ensure 'uniformity of practice and decision in all three sections, of considering any questions of principle or doubt arising on appeals that have been lodged, and of arranging for the sitting of the different sections of the Tribunal as the work requires from time to time', an executive committee was appointed to discuss and lay down rules of procedure. The executive committee met as and when required. The three committees sat independently of each other and met during 'the early closing day'. Communication between the three appeal committees and the local tribunals was good. The local tribunals' clerks and military representatives were informed as to which of the three appeal committees would hear their cases. Appellants were also given with good notice information as to when and where their appeals would be heard. If the sittings of two sections should clash and the Secretary was unable to attend both meetings, the Town Clerk at Croydon, or a solicitor from Guildford would take his place. All clerical work, however, was carried out at the central office of the Secretary. Provision was made for a military representative to be appointed to each appeal tribunal district. No local tribunal was split between two appeal tribunal districts with the exception of one rural district with a large area and a small and scattered population and poor transport facilities. Nares was confident that the 'system' was functioning well, for each section had heard 'a considerable number of appeals' and rather than encountering problems due to the sub-division of the area, the sub-division had made it easier for tribunalists and appellants to attend. Nares finished his letter offering to help if further

help was needed and stating he was sure the Clerk, R. Neville, would be prepared to help also if Austin chose to write to him.²⁴³ Based on such careful and detailed planning, the accusation that all tribunals were incompetent is unfounded.

As impressive as it sounded, the Middlesex Appeal Tribunalists did not adopt Surrey's 'system', but it took note of Surrey's careful preparations and made three timesaving decisions in preparation for the anticipated workload. At the committee meeting on 16 March 1916, Regester reported that he had in three cases directed the appellant to attend Mill Hill Barracks to be examined by Army doctors before their appeal hearing. Regester submitted his actions for the Tribunal's approval, which it gave. It was resolved therefore that when necessary, the Chairman ought to have the power to direct those men appealing on grounds of ill-health to submit themselves for medical examination without the approval of his Section.²⁴⁴ At another committee meeting on 12 April 1916, De Salis proposed, with Sharpe seconding and the Tribunal unanimously agreeing, that the decision to grant leave to appeal against one of the Appeal Tribunal's sections should be granted by the Section whose decision was being appealed rather than necessitating a full Tribunal meeting, unless the section desired to consult the whole Tribunal.²⁴⁵ It was further agreed on 17 April 1916 that any applications for leave to appeal not determined by the two Sections by Wednesday 19 April were to be decided by the Chairman of the Section that had heard the appeal to avoid the cases being held over.

²⁴³ TNA MH 47/121/3: Letter from Ramsey Nares to W. G. Austin, 16 March 1916.

²⁴⁴ TNA MH 47/5/1: Minute Book 1, 16 March 1916.

²⁴⁵ TNA MH 47/5/1: Minute Book 1, 12 April 1916.

As a means of helping to ensure that the Appeal Tribunal ran smoothly, it was the practice of the Tribunalists to inform in advance by letter if they knew they were going to have to be absent from a meeting. Devonshire wrote to Hart to inform him that he would be absent from the Tribunal committee meeting on 25 July 1917 as he was going to 'be out of town'. He asked if his 'regrets and apologies to the respective chairmen' could be conveyed.²⁴⁶ Devonshire had to absent himself again, this time from a Second Section sitting to be held on 10 April at 2:30 pm. He wrote to Hart to let him know he could not attend this sitting as he had 'a very important meeting', the nature of which he did not specify.²⁴⁷ A much longer absence was requested by Burt who wrote to Regester on 30 May 1918 informing him that he was not able to serve during the months of July, August and September. His reason was that many County Council departmental heads were being drawn into the Army and those that were left would want to take their annual vacation as normal. Burt therefore had to attend to his Council duties and offered to resign as a tribunalist on the basis that 'if service cannot be rendered resignation should at once follow.' However, his Council colleagues, once they had heard of his plan to resign, advised that he write to Regester to ask whether the Tribunal might consider taking on additional members or continue its work with a reduced number.²⁴⁸ Burt did not resign and no new tribunalists were appointed, which suggests that Burt somehow was able to find a way of attending to both his professional and tribunal duties.

The Local Tribunals

²⁴⁶ TNA MH 47/122/8; Letter from James Devonshire to Ernest Hart, 24 July 1917.

²⁴⁷ TNA MH 47/122/17; Letter from James Devonshire to Mr Hart, 8 April 1918.

²⁴⁸ TNA MH 47/122/18; Letter from Henry Burt to William Regester, Esq., 30 May 1918.

The Middlesex Appeal Tribunal had the responsibility of hearing appeals from thirty-seven local tribunals which were located in Middlesex, North London and West London. The Appeal Tribunal's jurisdiction stretched as far north as Enfield, as far west as Uxbridge and as far south-west as Staines. It encompassed both the quieter rural tribunals such as South Mimms and the very busy urban tribunals such as Tottenham and Willesden Green. The Joint Secretaries reported to the Civil Commissioner for the Military Service (Civil Liabilities) Committee that local tribunals sat in the following locations: 'Acton, Brentford, Chiswick, Ealing, Edmonton, Enfield, Feltham, Finchley, Friern Barnet, Greenford, Hampton, Hampton Wick, Hanwell, Harrow-on-the-Hill, Hayes, Hendon (Urban), Hendon (Rural), Heston and Isleworth, Hornsey, Kingsbury, Southall-Norwood, Ruislip-Northwood, Southgate, Staines (Urban), Staines (Rural), Sunbury, Teddington, Tottenham, Twickenham, Uxbridge (Urban), Uxbridge (Rural), Wealdstone, Wembley, Willesden, Wood Green, Yiewsley, South Mimms (Rural)'.²⁴⁹

The Middlesex Local Tribunals' correspondence with the Appeal Tribunal reveals that though they were new institutions, they were dependent upon pre-existing local government infrastructures and resources for their operation which no doubt aided in their efficiency. Just as the Appeal Tribunal met at the County Council's offices in the Westminster Guildhall, so too did the local tribunals occupy local council rooms. Staines Local Tribunal operated from the 'offices of the Local Tribunal (Recruiting)' according to its letter head.²⁵⁰ The Acton Local Tribunal was based in the Acton

²⁴⁹ TNA MH 47/121/10: Letter from the Joint Secretaries of the Middlesex Appeal Tribunal to the Civil Commissioner for Military Service (Civil Liabilities) Committee, 4 October 1916.

²⁵⁰ TNA MH 47/123/1: Letter from F. Victor Gould, Clerk to the Staines Local Tribunal to the Joint Secretaries of the Appeal Tribunal for the County of Middlesex, Guildhall, Westminster S.W., 11 March 1916.

Council offices in Winchester Street, Acton²⁵¹ and the Hendon Local Tribunal likewise presided in the ‘Council Offices, Hendon’.²⁵² The Twickenham Local Tribunal operated from offices in the Twickenham town hall.²⁵³ Those who worked as clerks for the local tribunals often worked as clerks for local and district councils and were not averse to using council stationery to conduct correspondence on behalf of their local tribunal. Edwin Goodship, for instance, was Clerk to the Friern Barnet Local Tribunal, but one piece of his correspondence reveals he was also Clerk to the Friern Barnet Urban District Council, for on the District Council’s stationery, the word ‘Council’ was struck out in his title ‘Clerk to the Council’ and replaced with the word ‘Tribunal’.²⁵⁴ Local council clerks worked as local tribunal clerks at Harrow-on-the-Hill,²⁵⁵ Hendon,²⁵⁶ Hornsey²⁵⁷ and Wood Green.²⁵⁸ Some local tribunal clerks were not clerks by profession, but nevertheless possessed a good level of education and experience of administrative tasks. The Clerk for the Wealdstone Local Tribunal, Herbert Walker, was an engineer and surveyor for the Wealdstone Urban District Council and worked in the

²⁵¹ TNA MH 47/123/1: Letter from William Hodson, Clerk for the Acton Local Tribunal to the Clerk to the Appeal Tribunal, 2 March 1916.

²⁵² TNA MH 47/123/1: Letter from Henry Humphris, Clerk to the Tribunal to Messrs Austin & Hart, District Appeal Tribunal, Guildhall, Westminster, S.W., 11 March 1916.

²⁵³ TNA MH 47/123/1: Letter from H. Jason Saunders, Clerk to the Twickenham Local Tribunal to the Joint Secretaries to the Appeal Tribunal for the County of Middlesex, Guildhall, Westminster, S.W., 10 March 1916.

²⁵⁴ TNA MH 47/123/1: Compliment Slip from Edwin Goodship, Clerk to the Friern Barnet Local Tribunal, 11 March 1918.

²⁵⁵ TNA MH 47/123/1: Letter from John Strachan, Clerk to the Harrow-on-the-Hill Local Tribunal to the Joint Secretaries of the Middlesex Appeal Committee, Guildhall, SW, 10 March 1916.

²⁵⁶ TNA MH 47/123/1: Letter from Henry Humphris, Clerk to the Hendon Local Tribunal to the Secretary of the Central Appeal Tribunal and Local Government Board, Whitehall, SW, 9 February 1916.

²⁵⁷ TNA MH 47/123/2: Letter from F. D. Askey, Clerk to the Hornsey Local Tribunal to the Joint-Secretaries of the Appeal Tribunal for the County of Middlesex, 3 April 1916, re Voluntarily Attested Men.

²⁵⁸ TNA MH 47/123/1: Letter from William P. Harding, Clerk to the Wood Green Local Tribunal to the Secretary of the Appeal Tribunal, Guildhall, Westminster, S.W., 3 April 1916.

council offices in Peel Road, Wealdstone.²⁵⁹ A number of solicitors also discharged the responsibility of clerk to the local tribunals at Greenford,²⁶⁰ Southall-Norwood,²⁶¹ Southgate,²⁶² Staines,²⁶³ Sunbury on Thames²⁶⁴ and Willesden.²⁶⁵

The Working Relationship between the Appeal and Local Tribunals

The efficiency of the Middlesex system depended on the goodwill and cooperation between the Appeal and local tribunals. In the list of 'Guiding Principles' which it formulated in early 1916, the Appeal Tribunal saw its duty in relation to the local tribunals as deciding whether the decision of the Local Tribunal was 'good or bad.' The Appeal Tribunal noted that so far it had acted as a 'Court of First Instance' and to have given its 'decisions without any regard to the decision appealed against.' In other words, the Appeal Tribunal chose initially to look at an appeal case afresh, unaffected by the local tribunal's original decision. However, this could have led to a significant number of changes to the local tribunals' original decisions with the possibility of undermining the relationship with them. The 'Guiding Principles' therefore concluded that 'The Appeal Tribunal, should...hesitate before upsetting the decision of the Local

²⁵⁹ TNA MH 47/123/1: Letter from Herbert Walker, Clerk to the Wealdstone Local Tribunal to the Secretaries of the Appeal Tribunal, Guildhall, Westminster, SW, 8 March 1916.

²⁶⁰ TNA MH 47/124/7//08: Letter from A. Lloyd-Jones, Clerk to the Greenford Local Tribunal, re. W. J. Tester and E. Harper, to the Joint-Secretaries of the Middlesex Appeal Tribunal, Guildhall, Westminster, S.W., 27 June 1917.

²⁶¹ TNA MH 47/123/1: Letter from A. Lawrence Houlder, Clerk to the Southall-Norwood Local Tribunal to the Joint-Secretaries of the Middlesex Appeal Tribunal, Guildhall, Westminster, SW, 18 March 1916.

²⁶² TNA MH 47/123/1: Letter from A. E. Lauder, Clerk to the Southgate Local Tribunal to the Clerk to the Appeal Tribunal, Guildhall, Westminster, S.W.1, 15 March 1917.

²⁶³ TNA MH 47/123/1: Letter from H. Scott Freeman, Clerk to the Staines Local Tribunal, to the Joint Secretaries of the Appeal Tribunal for the County of Middlesex, Guildhall, Westminster, S.W., 17 March 1916.

²⁶⁴ TNA MH 47/124/2/06: Letter from Ernest Beeching, Clerk to the Sunbury-on-Thames Local Tribunal, re. Local Tribunal, Sunbury-on-Thames, to the Joint Secretaries of the Appeal Tribunal, 18 January 1917.

²⁶⁵ TNA MH 47/123/1: Letter from Richard H. Tee and Frank E. Chennell, Joint Clerks of the Willesden Military Service Tribunal to W. G. Austin, Joint Secretary of the Appeal Tribunal Guildhall, Westminster, S.W., 14 March 1916.

Tribunal.’²⁶⁶ The Appeal Tribunal adhered to this principle for 55% of appeal cases were dismissed (as already noted in the overview to this chapter in chapter one).

With regards to the workload created by the interaction of the Appeal Tribunal with its local tribunals, the Appeal Tribunal sought advice. On the advice of both the Central Tribunal and the L.G.B., the Appeal Tribunal decided in May 1916 that papers relating to appeal cases sent by the local tribunals to the Appeal Tribunal, such as ‘the notices of appeal, applications for exemption, and other documents’, would not be returned to the local tribunals, but would be retained by the Appeal Tribunal ‘as part of their records’.²⁶⁷ This policy no doubt aimed at reducing the Appeal Tribunal’s postage costs and more importantly, its administrative workload. Just over a month later, the Joint Secretaries sought the advice of the L.G.B. over what to do with those appeals brought by men on the grounds of business whose cases had been dealt with by the local tribunals where the men lived rather than by the local tribunals where the men’s businesses were based. The Joint Secretaries wished to know which tribunal ought to hear such cases.²⁶⁸ Long’s response characteristically left it up to the Appeal Tribunal to decide. Long wrote:

‘if, in any case of the kind, the Appeal Tribunal are of the opinion that the case is one with which they should not deal, they may refer it directly to the appropriate local tribunal, informing the local tribunal which dealt with the case in the first instance that this has been done.’²⁶⁹

²⁶⁶ TNA MH 47/144/3: Appeal Tribunals-Guiding Principles.

²⁶⁷ TNA MH 47/121/5: Letter from the Joint Secretaries to the Appeal Tribunal of Middlesex County to H. Jason Saunders, Clerk to Twickenham Local Tribunal, 13 May 1916.

²⁶⁸ TNA MH 47/121/6: Letter from the Joint Secretaries to the Secretary of the Local Government Board, re APPEALS, 23 June 1916.

²⁶⁹ TNA MH 47/121/6: Letter from I. A. Gibbon for the Assistant Secretary to the Joint Secretaries of the Middlesex Appeal Tribunal, 29 June 1916.

The Appeal Tribunal consequently decided that applications on grounds of business ought to be heard by the local tribunal where the business was situated. Thus the Willesden Local Tribunal was advised by the Appeal Tribunal to ‘cancel their decision’ in the case of R. G. Fenton and refer his case to the City of London Tribunal which had jurisdiction over the area where his business was situated.²⁷⁰

Legislation determined what case papers the local tribunals had to supply the appeal tribunals when an appellant made an appeal. In their letter explaining the protocol to Frederick Rodd, the clerk to the Wembley Local Tribunal, the Joint Secretaries quoted ‘Clause 20 of the Order and Council’ as requiring that Form R.43 or the Notice of Appeal, had to be forwarded to the Appeal Tribunal with the original form of application and ‘other documents (if any) in connection with the case’. The same documents were required in appeals made by men who had voluntarily attested under the Derby Scheme. Apart from R.43 and the original form of application, the Middlesex Appeal Tribunal specified that it wished to see the military representatives’ observations in any appeal case. Case papers had to be signed as legitimate otherwise, they would be returned for signing. Form R.44, which was the duplicate Notice of Appeal (a carbon copy was made when the appellant filled out the appeal form), had to be sent to the recruiting officer. This prevented the appellant being called up by mistake whilst his appeal was pending.²⁷¹

²⁷⁰ TNA MH 47/121/9: Letter from the Joint Secretaries to the Clerk to the Willesden Local Tribunal, 20 September 1916.

²⁷¹ TNA MH 47/121/3: Letter from the Joint Secretaries of the Middlesex Appeal Tribunal to F. W. Rodd Esq., Clerk to the Wembley Local Tribunal, 9 March 1916.

There was room, however, for negotiation between the Appeal and the local tribunals as to what constituted relevant documents. Ernest Collins, the Clerk to the Chiswick Local Tribunal, asked in a letter dated 24 March 1916 whether it was proper for an appellant to be able to see the shorthand notes taken during taken during proceedings and whether the Appeal Tribunal wished to continue receiving itself the short hand notes along with Notices of Appeal.²⁷² The Appeal Tribunal's response was that it wished to continue to receive Chiswick's shorthand notes and that it was for Chiswick to decide whether it would provide the appellant with a copy of its notes.²⁷³ Other additions to the case papers could include letters from interested parties such as employers who either were making the appeal on behalf of the man or who wished to reinforce his appeal. For example, in the case of Charles Edwin Goodfellow, T. W. Scott, the Clerk to the Enfield Local Tribunal, enclosed a letter from Messrs F. Reddaway and Co. Ltd.²⁷⁴ The local tribunals routinely included covering letters which gave summary information of the appeal cases being passed on. All the covering letters that have survived in the archive provided the surnames and initials of appellants, or Christian names and surnames. Sometimes the addresses of appellants and their case numbers were provided also.²⁷⁵ Additionally, the occupation of the appellant was included in the covering letter.²⁷⁶ Sometimes the covering letter distinguished between those appeal cases initiated by the

²⁷² TNA MH 47/121/3: Letter from Ernest Collins, Clerk of the Chiswick Local Tribunal to the Joint Secretaries of the Middlesex Appeal Tribunal, 24 March 1916.

²⁷³ TNA MH 47/121/3: Letter from the Clerk of the County Council to the Secretary of the Chiswick Tribunal, 27 March 1916.

²⁷⁴ TNA MH 47/123/3: Letter from T. W. Scott, Clerk to the Enfield Local Tribunal, re. Case No. 564-Albert Cooper and Case No. 578 –Charles Edwin Goodfellow, to the Joint Secretaries of the County Appeal Tribunal Guildhall, 26 May 1916.

²⁷⁵ See for example, TNA MH 47/123/1: Letter from George E. Brydges, Clerk to the Ealing Local Recruiting Appeal Tribunal to the Joint Secretaries to the Appeal Tribunal for the County of Middlesex, 11 March 1916.

²⁷⁶ See for example, TNA MH 47/123/1: letter from Fred W. Rodd, Clerk to the Wembley Local Tribunal to the Joint Secretaries of the Appeal Tribunal for the County of Middlesex, 29 March 1916.

appellant and those by the military representatives and the National Service representatives.²⁷⁷ If another person was appealing on behalf of an attested or conscripted man, both the name of the appellant and the man on whose behalf the appellant was appealing were provided.²⁷⁸

Throughout the period of conscription, many cases hung over from the days of the Derby Scheme and to aid the Appeal Tribunal, some local tribunals would distinguish between those men who had attested under the Derby Scheme and were appealing and those who were appealing for exemption as conscripted men. Those local tribunals that made the distinction between attested and conscripted men were Brentford,²⁷⁹ Chiswick,²⁸⁰ Enfield,²⁸¹ Hornsey,²⁸² Tottenham,²⁸³ Twickenham,²⁸⁴ and Southall-Norwood²⁸⁵ and Acton²⁸⁶ and Wood Green. Wood Green made the distinction between

²⁷⁷ TNA MH 47/123/1: Letter from E.H. Lister, Clerk to the Finchley Local Tribunal to the Joint Secretaries of the Appeal Tribunal for the City of Middlesex, 29 March, 1916. In his letter, Lister distinguishes between the Military Representative's appeal against the decision given in T. Mitchell's case and the appeal made by F. Jones.

²⁷⁸ See for example TNA MH 47/123/1: Letter from A. R. W. Woodbridge, Clerk to the Uxbridge Local Appeal Tribunal to the Joint Secretaries of the Appeal Tribunal for the County of Middlesex, 21 March 1916.

²⁷⁹ TNA MH 47/124/2/13: Letter from Charles Turner, Clerk to the Brentford Local Tribunal, to the Joint-Secretaries of the Middlesex Appeal Tribunal, 11 January 1917.

²⁸⁰ TNA MH 47/123/1: Letter from Ernest F. H. Collins, Clerk to the Chiswick Local Tribunal to the Joint Secretaries of the Middlesex Appeal Tribunal, 31 March 1916.

²⁸¹ TNA MH 47/124/1/02: Letter from T. W. Scott, Clerk to the Enfield Local Tribunal, re. Enfield Local Tribunal, to the Joint Secretaries of the Appeal Tribunal for Middlesex, 27 December 1916.

²⁸² TNA MH 47/123/2: Letter from F. D. Askey, Clerk to the Hornsey Local Tribunal to the Joint Secretaries of The Appeal Tribunal for the County of Middlesex, 3 April 1916.

²⁸³ TNA MH 47/123/1: Letter from Reginald Coupland Graves, Clerk to the Tottenham Local Tribunal to the Appeal Tribunal for the County of Middlesex, 13 March 1916.

²⁸⁴ TNA MH 47/123/1: Letter from H. Jason Saunders, Clerk to the Twickenham Local Tribunal to the Middlesex Appeal Tribunal, 13 March 1916.

²⁸⁵ TNA MH 47/123/1: Letter from Lawrence Holder, Clerk to the Southall-Norwood Local Tribunal to the Joint Secretaries of the Middlesex Appeal Tribunal, 18 March 1916.

²⁸⁶ TNA MH 47/123/1: Letter from William Hodson, Clerk to the Acton Local Tribunal to the Joint Secretaries of the Appeal Tribunal, 28 March 1916.

attested men and unattested married men in its covering letters.²⁸⁷ Twickenham Local Tribunal, in its covering letter, listed appellants in two groups: those who had voluntarily attested and sought exemption and those seeking exemption under the Military Service Act.²⁸⁸ The distinction between attested men seeking exemption and conscripts seeking exemption was still being made as late 12 September 1918 by the Hornsey Local Tribunal in its letters to the Appeal Tribunal.²⁸⁹ By 1918, certificates of exemption were coming under review because of the voracious need for more men at the front, and the Hornsey Local Tribunal, in its covering letter to the Appeal Tribunal dated 22 June 1918, made a distinction between those appealing under the Military Service Act and those who were appealing against the decision of the review of their certificates of exemption.²⁹⁰

Though the Appeal Tribunal's task was to alter on appeal where it saw fit the judgement of a local tribunal, the Appeal Tribunal respected the autonomy of the local tribunals in making their decisions in the first place and sought to protect their integrity and status. As stated earlier, one of the Appeal Tribunal's 'guiding principles' was to think carefully before altering a local tribunal's decision. This was most dramatically demonstrated in the case of conscientious objectors' appeals of which 70% were

²⁸⁷ See for example, TNA MH 47/124/2/07: Letter from William P. Harding, Clerk to the Wood Green Local Tribunal, re Military Service, to the Joint Secretaries of the Appeal Tribunal, Guildhall, Westminster, S.W.

²⁸⁸ TNA MH 47/123/1: Letter from H. Jason Saunders, Clerk to the Twickenham Local Tribunal to the Middlesex Appeal Tribunal, 13 March 1916.

²⁸⁹ TNA MH 47/124/22/6: Letter from F. D. Askey, Clerk to the Hornsey Local Tribunal to the Joint Secretaries of the Middlesex Appeal Tribunal, 12 September 1918.

²⁹⁰ TNA MH 47/124/19/29: Letter from F. D. Askey, Clerk to the Hornsey Local Tribunal, re. Military Service, to the Joint-Secretaries of the Middlesex Appeal Tribunal, Guildhall, Westminster, S.W., 22 June 1918.

dismissed by the Appeal Tribunal.²⁹¹ However, there was still the potential for conflict between the Appeal and a local tribunal over the Appeal Tribunal's decision to change the local tribunals' decision. Some of Middlesex's local tribunals sought from the Appeal Tribunal explanations by letter for its decisions. One such letter was acknowledged as having arrived from the Sunbury Local Tribunal in the Appeal Tribunal's minutes for 28 November 1916.²⁹² In response, the Appeal Tribunal clerk wrote to Sunbury to give the following information: that each appeal case from Sunbury had been judged on its own merits; that the majority of appeal cases were agricultural which the Appeal Tribunal was prepared to exempt in contrast to Sunbury. In the other appeal cases that had emanated from Sunbury, the Appeal Tribunal explained that it had exempted the men for they were either in certified occupations or had submitted themselves to medical examination since their hearing at Sunbury.²⁹³ It is worthy of note that though the Appeal Tribunal explained its decisions, it did not instruct Sunbury Local to change its approach when making decisions. The Middlesex tribunal system was therefore in the matter of the local tribunals' judgments a decentralised system in which the Appeal Tribunal was prepared to alter on appeal the local tribunals' decisions, but not to dictate to the local tribunals how they were to make their judgements in the first place. The explanation of its decisions to the Sunbury Local Tribunal was, however, an exception, for when the Clerk to the Sunbury Local Tribunal, R. Beeching, tried to engage in further correspondence with the Appeal Tribunal over its decisions, in a letter dated 8 December 1916, the Joint Secretaries informed Beeching that as a principle the Appeal Tribunal would not inform local tribunals as to why it had varied

²⁹¹ TNA MH 47/143: Middlesex Appeal Tribunal: Statistics of Cases.

²⁹² TNA MH 47/5/3: Minute Book 3, 28 November 1916.

²⁹³ TNA MH 47/5/3: Minute Book 3, 5 December 1916.

on appeal their decisions.²⁹⁴ The Joint Secretaries clearly did not wish to encourage time-consuming correspondence with the local tribunals.

The Appeal Tribunal reinforced the protocol of making appeals to the Appeal Tribunal through the local tribunal by refusing to accept appeals made directly to the Appeal Tribunal. A case in point was that of Edward Croft who wrote directly to the Appeal Tribunal to appeal against his local tribunal's decision to exempt him from non-combatant service only. Croft complained that his appeal had been refused on the 'ground of lateness'. Croft therefore was seeking 'advice' from the Appeal Tribunal as to how to proceed.²⁹⁵ Though the Appeal Tribunal's letter in reply is not extant, the note written at the bottom of the letter, presumably by one of the Joint Secretaries, reveals what advice was going to be given to Croft: 'appeals against decision by Local Tribunal be received direct by the appeal tribunal but must come through the Local Tribunal.'²⁹⁶ Croft had failed to appeal within three days of his local tribunal's decision. If a local tribunal refused to allow an appeal to go forward for being made out of time, the Appeal Tribunal followed the precedent set by the Central Tribunal and accepted the local tribunal's decision. Therefore, when a solicitor, William George Hill, wrote to the Appeal Tribunal to ask whether Mayhew's appeal against the Tottenham Local Tribunal could go forward even though he had been refused the appeal forms as the deadline of applying within three days had expired,²⁹⁷ the Joint Secretaries informed him that 'no appeal lies from the refusal of a Local Tribunal to extend the time within which an

²⁹⁴ TNA MH 47/121/12: Letter from the Joint Secretaries to the Middlesex Appeal Tribunal to R. Beeching, Clerk to the Sunbury Local Tribunal, 8 December 1916.

²⁹⁵ TNA MH 47/121/8: Letter from Edward Croft to the Joint Secretaries, 9 August 1916.

²⁹⁶ Ibid.

²⁹⁷ TNA MH 47/121/12: Letter from William George Hill to the Clerk to the Middlesex Tribunal, 16 December 1916.

appeal may be made.’²⁹⁸ If, however, an appellant had not been refused an appeal by his local tribunal for being out of time, but on reflection wished to make an appeal after the three-day deadline, the Appeal Tribunal’s advice was to contact the local tribunal to see if it was prepared to allow an appeal to go forward.²⁹⁹

The Appeal Tribunal also refused to allow appellants to seek re-hearings by a local tribunal once the case had already been heard by another tribunal. To have permitted this would have seriously compromised the authority of individual tribunals and encouraged others to do the same with the consequence that the case load of the tribunals would have been increased intolerably. This was the case with an appellant called A. W. Bennett who had asked the Appeal Tribunal whether his case could be re-heard by the Chiswick Local Tribunal after it had been heard by the Twickenham Local Tribunal and the Appeal Tribunal. The First Section reported at a full Tribunal committee meeting that it had refused permission.³⁰⁰

The Appeal Tribunal’s Advice and Corrections

If the Appeal Tribunal did not regard it as wise to intervene too closely in the work of the local tribunals, it was content to provide advice. For instance, W. G. Hiscock, the clerk to the Feltham Local Tribunal, wrote to the Appeal Tribunal asking whether in the case of an appeal by an employer, the employee had to attend the hearing as well.³⁰¹

Hiscock was advised that in the case of appeals by employers for employees, it was

²⁹⁸ TNA MH 47/121/12: Letter from the Joint Secretaries to W.G. Hill, 19 December 1916.

²⁹⁹ TNA MH 47/122/4: Letter from the Joint Secretaries to Mr C. S. Burrells, 19 March 1917.

³⁰⁰ TNA MH 47/5/1: Minute Book 1, Tuesday 25 July 1916.

³⁰¹ TNA MH 47/121/7; Letter from W. G. Hiscock, Clerk to the Feltham Local Tribunal to the Joint Secretaries to the Appeal Tribunal to the County of Middlesex, 17 July 1916.

always the case that a note was placed on the notice of hearing in order to request that the man as well as the employer attend the hearing.³⁰²

The Appeal Tribunal not only advised, it acted to correct errors and other failings on the part of the local tribunals. One of the most serious faults on the part of a tribunal was not to detect misrepresentation or deception on the part of an appellant. The Hanwell Local Tribunal wrote on 27 June 1916 that there had been misrepresentation in the case of A. Karchewer who had chosen to appeal against Hanwell's decision. What the misrepresentation had been, Hanwell did not specify, but the Local Tribunal was instructed by the Appeal Tribunal to allow the Military Representative, if he so wished, to apply for a review of the case.

Another error that had to be corrected in the first month of the Middlesex system was the continuation of practices that had been legitimate under the Derby Scheme. At the time the Scheme was operating, appeal tribunals did not exist, and all appeals from the local tier went straight to the Central Tribunal at Westminster. Some local tribunals within the Middlesex jurisdiction had continued this practice, prompting the Central Tribunal to write to the Middlesex Appeal Tribunal on 20 March 1916 informing them that 57 cases forwarded by the local tribunals were being referred back to the Appeal Tribunal with all the documents that the Central Tribunal had in relation to the cases.³⁰³

³⁰² TNA MH 47/121/7: Letter from the Joint Secretaries to W. G. Hiscock, Clerk to the Feltham Local Tribunal, 18 July 1916.

³⁰³ TNA 47/123/1: Letter from R. Reed for the Central Tribunal the Middlesex Appeal Tribunal, 20 March 1916.

The most common error with which the Appeal Tribunal had to contend was administrative error, which was inevitable given the scale of work that the Middlesex system faced and the number of people involved in judging and handling the cases. The errors which the Appeal Tribunal had to address in its correspondence with the local tribunals concerned problems with the case papers they sent to the Appeal Tribunal. These problems can be categorised in four ways: missing documents among the case papers; documents sent in error; the failure to complete forms; and the incorrect filling out of forms. Clearly, the Appeal Tribunal expected high standards in terms of the presentation of case material and from the start insisted on this for the sake of fair judgement. On the other hand, the local tribunals were having to learn what the Appeal Tribunal expected of them. The majority of the correspondence between the Appeal and the local tribunals about clerical mistakes occurred in March 1916 which suggests a system that was being constructed from scratch and that lessons were learned quickly.

The local tribunal that appears to have received most correction from the Appeal Tribunal and which exemplifies all the four administrative problems listed above was Wembley. Frederick W. Rodd was the Clerk and already on 11 March 1916 was writing to acknowledge receipt of Austin's letter that enclosed the Notices of Appeal from Percy Kerry Barrett which he had sent mistakenly to the Appeal Tribunal.³⁰⁴ In the same letter, Rodd had to acknowledge another error: this time the failure to complete correctly the Notices of Appeal on the part of six men appealing the Local Tribunal's

³⁰⁴ TNA 47/123/1: Letter from Fred W. Rodd, Clerk to the Wembley Local Tribunal to W. G. Austin, Joint Secretary to the Appeal Tribunal, 11 March 1916.

judgement which the Appeal Tribunal had returned to him.³⁰⁵ Again the Wembley Tribunal was found wanting for on 5 April 1916, Rodd apologised for the incomplete Form R.43 in conjunction with Blanco's case (no. 107).³⁰⁶ On 10 April, Rodd wrote to the Appeal Tribunal to ask for a complete list of disposed of and outstanding appeals to date sent by Wembley in order to check 'a discrepancy in the number'.³⁰⁷ The Middlesex Appeal Tribunal responded with the information that 34 cases to date had been sent by Wembley of which five had been dealt with and one had been withdrawn.³⁰⁸ Rodd replied, drawing the Appeal Tribunals' attention to the fact that a non-attested appellant, F. L. Gray, had been included in the Wembley list, but had not appeared at Wembley. Another non-attested man, G. F. Lowen, who had appeared at Wembley, was omitted from the Appeal Tribunal's list. Rodd ended his letter by writing that the list had been returned corrected.³⁰⁹ The Appeal Tribunal's response was to identify that it had mistakenly given the name F. L. Gray which should have read C. F. Lowen. The Appeal Tribunal also notified Rodd that the list he said he had returned with corrections had not been received.³¹⁰ On 18 April, Rodd apologised for not including a list of appeal cases in his letter and sent the list to the Appeal Tribunal on 22 April 1916.³¹¹

³⁰⁵ TNA 47/123/1: Letter from Fred W. Rodd, Clerk to the Wembley Local Tribunal to the Joint Secretaries of the Middlesex Appeal Tribunal, 11 March 1916.

³⁰⁶ TNA MH 47/123/2: Letter from Frederick W. Rodd, Clerk to the Wembley Local Tribunal to the Secretaries of the Appeal Tribunal for the County of Middlesex, Guildhall, S.W., 5 April 1916.

³⁰⁷ TNA MH 47/123/2: Letter from Frederick W. Rodd, to the Joint Secretaries of the Appeal Tribunal for the County of Middlesex, Guildhall, Westminster, 10 April 1916.

³⁰⁸ TNA MH 47/123/2: Letter from the Joint-Secretaries of the Middlesex Appeal Tribunal to the Secretary of the Wembley Local Tribunal, 14 April 1916.

³⁰⁹ TNA MH 47/123/2: Letter from Frederick W. Rodd, Clerk to the Wembley Local Tribunal to the Clerk to the Tribunal for the County of Middlesex, 18 April 1916.

³¹⁰ TNA MH 47/123/2. Letter from the Clerk to the Tribunal for the County of Middlesex, Westminster to Frederick W. Rodd, 20 April 1916.

³¹¹ TNA MH 47/123/2: Letter from Fred. W. Rodd, Clerk to the Wembley Local Tribunal to the Joint-Secretaries of the Appeal Tribunal for the County of Middlesex, 22 April 1916.

The Appeal Tribunal's Errors

The Appeal Tribunal was responsible also for its share of errors to which the local tribunals drew its attention. One error on the part of the Appeal Tribunal was failing to notify local tribunals of its case decisions. H. Jason Saunders, the Clerk to the Twickenham Local Tribunal, wrote on 8 December 1917 to the Clerk of the Appeal Tribunal stating that though the Appeal Tribunal had dealt with various appeal cases emanating from Twickenham, no notice of decisions had been received from the Appeal Tribunal 'for some time' and that he would be grateful to receive these at 'the earliest opportunity'.³¹² Saunders received a reply from the Appeal Tribunal for in his next letter to the Appeal Tribunal on 12 December 1917, he acknowledged he had received the notices of decision in the cases of Garland and Taylor, but had been waiting for those of J. D. A. Munro (684) and F. J. Arkwright (690) for five and two months respectively.³¹³ More seriously, the Appeal Tribunal also seemed to have mislaid the papers for appeal cases nos. 104, 120, 139, 152, 165, 185 sent by the Tottenham Local Tribunal, for the Tottenham Clerk sent a letter confirming that these cases had indeed been sent on 31 March 1916.³¹⁴ The surviving correspondence does not indicate whether these case papers were ever found and what was done in the event of their loss.

Problems with Military Service Representatives

³¹² TNA MH 47/124/13/1: Letter from H. Jason Saunders, Clerk to the Twickenham Local Tribunal to the Clerk of the Middlesex Appeal Tribunal, 8 December 1917.

³¹³ TNA MH 47/124/14/01: Letter from H. Jason Saunders, Clerk to the Twickenham Local Tribunal to the Clerk of the Middlesex Appeal Tribunal, 12 December 1917.

³¹⁴ TNA MH 47/123/2: Letter from Reginald Coupland Graves, Clerk to the Tottenham Local Tribunal to the Joint-Secretaries of the Appeal Tribunal for the County of Middlesex, Guildhall, Westminster, S.W., 3 April 1916.

One of the challenges that faced the Middlesex Appeal Tribunal was ensuring that it received from all the local tribunals their military representatives' written observations on cases coming to appeal. The problem manifested at the commencement of the Middlesex tribunals' work for the Joint Secretaries wrote on 9 March 1916 to six local tribunals reminding them to send their military representatives' comments. Usually the omission of the military representative's observation was the fault of the representative himself who gave his observations verbally at the hearing rather than writing them down or insisted on sending his written observations directly to Captain Bax rather than with the rest of the case papers to the Appeal Tribunal. T. W. Scott, Clerk to the Enfield Tribunal, responded to the Appeal Tribunal's reminder by affirming that in the cases referred to by the Appeal Tribunal letter, all the documents had been forwarded. However, the Military Representative had not submitted any observations on any of them.³¹⁵ The Appeal Tribunal insisted on having the written observations for Scott wrote again to the Appeal Tribunal asking whether he should send them the comments of the Military Representative, W. D. Cornish, or hand the forms back to Cornish who had stated that he had to send the forms to Captain Bax.³¹⁶ The Joint Secretaries responded by asking Scott to send the original comments to the Appeal Tribunal and that Cornish ought to send duplicates to Bax.³¹⁷ The Heston-Isleworth Local Tribunal was notified in the appeal case of A. Whitehead that the Military Representative's observations on the case had not been received and these needed to be sent by return

³¹⁵ TNA MH 47/121/3: Letter from T. W. Scott, clerk to the Enfield Local Tribunal to Walter George Austin, Appeal Tribunal for Middlesex re Tribunal Appeals, 10 March 1916.

³¹⁶ TNA MH 47/121/3: Letter from T. W. Scott, Clerk to the Enfield Local Tribunal to the Joint Secretaries of the Appeal Tribunal for Middlesex, 25 March 1916.

³¹⁷ TNA MH 47/121/3: Letter from Joint Secretaries of the Middlesex Appeal Tribunal to T. W. Scott, Esq., Public Offices, Enfield, 27 March 1916.

post.³¹⁸ Whether this was the fault of the Military Representative, misunderstanding on the part of the Tribunal, or clerical oversight, the letter does not specify and no reply from Heston-Isleworth exists. Acton Local Tribunal was also challenged over the absence of written observations among the case papers it had sent. William Hodson, Acton's Clerk, responded by saying that in six appeal cases, the Military Representative 'did not favour the Local Tribunal of his observations, and in quite a number of cases' it was found that he had 'abstained from submitting any observations' because he had contended that he was not called upon 'to submit any written observations'. When asked for his observations, he stated that he had no observations to make and left the case for the tribunal to decide.³¹⁹ Edwin Goodship, the Clerk to the Friern Barnet Local Tribunal, was prompted also for his Military Representative's written reactions in two appeal cases. Goodship informed the Appeal Tribunal that he had not received any observations from the Military Representative, Mr Bell, but duplicate notices of Appeal had been sent to him and his observations were expected soon.³²⁰ In response to the Appeal Tribunal's inquiry about the Military Representative's written opinions of two cases, Percy Scott, the Clerk to the Hanwell Local Tribunal, reiterated what he had written on 6 March: that the Military Representative had not made any observations, whether written or verbal.³²¹ In the case of the Brentford Local Tribunal, it may have been an error on the part of the Tribunalists. Charles Turner, its Clerk, asserted to the Appeal Tribunal that the Military Representative's observations were not required to be

³¹⁸ TNA 47/123/1: Letter from the Appeal Tribunal to the Isleworth Local Tribunal, 9 March 1916.

³¹⁹ TNA MH 47/121/3: Letter from William Hodson, Clerk to the Acton Local Tribunal, re. Acton Local Tribunal Appeals, to the Joint Secretaries of the Appeal Tribunal, 10 March 1916.

³²⁰ TNA MH 47/121/3: Letter from Edwin Goodship, Clerk to the Friern Barnet Local Tribunal to the Joint Secretaries of the Appeal Tribunal for the County of Middlesex, 10 March 1916.

³²¹ TNA MH47/121/3: Letter from Percy Scott, Clerk to the Hanwell Local Tribunal to the Joint Secretaries of the Appeal Tribunal for the County of Middlesex, 10 March 1916.

sent to the Appeal Tribunal and anyhow they were verbally given at the time of the hearing.³²² The Joint Secretaries replied, insisting on having all papers in connection with a case, including any written observations by the Military Representatives.³²³

The issue of the military representatives' written comments demonstrates the scrupulosity of the Appeal Tribunal in having all the available evidence in order to judge appeals correctly. It also reveals the extent to which the military representative operated independently of the tribunal to which he was attached, for if he chose not to provide written observations, there was little the local tribunal could do other than prompt him for them. This administrative flaw therefore was the fault of members of the military rather than the tribunals. However, no further correspondence exists within the archive over the matter of the military representatives' written responses, which suggests two possibilities: that the military representatives became more diligent about making written responses which were then reliably submitted with the rest of the cases papers by the local tribunals, or that the Appeal Tribunal came to the conclusion that it would work with whatever responses it received from the military representatives.

Ensuring a Fair Hearing

The Appeal Tribunal was determined to provide appellants with a fair hearing for it corrected appellants' errors when using the application procedures, provided them with advice and intervened when a local tribunal misinterpreted conscription law to the detriment of an appellant. A common problem committed by appellants was sending

³²² TNA MH 47/121/3: Letter from Charles Turner, Clerk to the Brentford Local Tribunal to the Joint Secretaries of the Appeal Tribunal for Middlesex, 10 March 1916.

³²³ TNA MH 47/121/3: Letter from the Joint Secretaries of the Appeal Tribunal for the County of Middlesex to the Secretary of the Brentford Tribunal, 14 March 1916.

papers to the wrong tribunal. Percy Malcolm Higgins³²⁴ and George Richard Ballard³²⁵ were both informed by Austin and Hart that they had mistakenly sent their Notice of Appeal to the Appeal Tribunal rather than to their local tribunal, which in Higgins' case was Ealing and in Ballard's, Hendon. Arthur Brame, an actor who had been conscripted, ignored or was ignorant of procedure and wrote directly to Regester to protest his conscription and request that Regester look into his case.³²⁶ On behalf of Regester, the Joint Secretaries acknowledged his letter and advised Brame to follow protocol and serve his application upon the Secretary of the Acton Local Tribunal first.³²⁷ The Appeal Tribunal was even prepared to provide advice on matters beyond those pertaining to its immediate function. M. J. Lamboll had appeared before the Appeal Tribunal on 21 March 1916 and had had his appeal turned down. He worked as a baker for the baking and confectionary company, C. Charles & Co. Ltd, and wrote to ask the Appeal Tribunal whether upon joining up, he would be classified as a baker by the Army. Probably Lamboll hoped that by working in the Army's kitchens, he might avoid a combatant role. In blue ink below the black ink handwriting of the letter, Hart made a note to himself that this was 'a matter for the military authorities.'³²⁸ Consequently, Hart replied that it was for the military authorities to decide whether Lamboll would be employed as a baker, however, he advised Lamboll to inform the Army that he was a baker and apply for that work.³²⁹

³²⁴ TNA MH 47/121/3: Letter from the Joint Secretaries to Percy Malcom Higgins, 25 March 1916.

³²⁵ TNA MH 47/121/3: Letter from the Joint Secretaries to George Richard Ballard, 30 March 1916.

³²⁶ TNA MH 47/121/3: Letter from Arthur Brame to William Regester, 4 March 1916.

³²⁷ TNA MH 47/121/3: Letter from the Joint Secretaries to Arthur Brame, Esq., 6 March 1916.

³²⁸ TNA MH 47/121/3: Letter from M. J. Lamboll to Mr E. Hart, Guildhall, Westminster, 28 March 1916.

³²⁹ TNA MH 47/121/3: Letter from Earnest Hart, Joint Secretary to the Middlesex Appeal Tribunal to M. J. Lamboll, 29 March 1916.

When a local tribunal misapplied the law to the detriment of the appellant, the Appeal Tribunal wrote to correct it. In one case, the Joint Secretaries wrote to the Southall-Norwood Local Tribunal about a man called Sherman who had contacted the Appeal Tribunal explaining that he had been refused permission by the Local Tribunal to make application for the renewal of his certificate of exemption which expired on 31 July 1916 unless the Appeal Tribunal requested that the Local Tribunal heard the application. The Local Tribunal was informed that according to Paragraph 9 of page 7 of the tribunals' *Regulations*, an appellant could apply for the renewal of the certificate in the same way that he had made application for certificate in the first place: by sending notice in duplicate within two weeks of the first certificate's expiration date. However, if the conditions of the certificate had been varied by the appeal tribunal, Section 4 (1) of the Military Service Act, 1916, Session 2, stated the application for an extension had to be made to the appeal tribunal. As the Appeal Tribunal had dismissed Sherman's appeal, Sherman had to make application to the Local Tribunal for a renewal of his certificate.³³⁰ In another case, it was to the appellant that the Appeal Tribunal wrote, advising him of his legal rights. The case concerned H. A. Chambers who had been called to the Colours on 25 August 1916. He had applied for a medical examination and had been passed fit for general service which he regarded as 'grotesque' in the light of his 'previous rejection' and his physique. Chambers had been informed by the Harrow Local Tribunal that he could not appeal against a medical board's decision and now it was 'too late to lodge an appeal.' The Joint Secretaries

³³⁰ TNA MH 47/121/7: Letter from the Joint Secretaries to the Clerk to the Southall-Norwood Local Tribunal, re SHERMAN, 19 July 1916.

advised Chambers that he could apply within the prescribed time to the Local Tribunal against their decision not to allow an extension of time within which to appeal.³³¹

Closing Loopholes

Though the Appeal Tribunal was prepared to help appellants make their application correctly and be treated according to legislation's stipulations, when provided information by concerned citizens about men avoiding their duty, the Appeal Tribunal acted. A private individual, John S. Kemp, wrote to the Tribunal informing it that men were escaping military service by joining the Royal Naval Air Service in auxiliary roles. The Tribunal committee asked Kemp to provide the particulars of the cases to which he was referring.³³² Kemp duly complied for a letter with the requested particulars was read at a committee meeting on 26 September 1916.³³³ It was resolved that a copy of the correspondence be sent to the Military Representative, Captain Bax, and that he be asked what measures could be taken to stop this exploitation of a loophole in conscription. Bax contacted the War Office for a letter from the Office was submitted at the Tribunal committee meeting on 10 October.³³⁴ The matter resurfaced in a committee meeting on 24 October when a letter dated 22 October from the War Office was submitted. The letter informed the Tribunal that two men with the R.N.A.S. had been called up for immediate duty and a third man was placed on the deferred list.³³⁵

Ignoring Anonymous Letters

³³¹ TNA MH 47/121/8: Letter from the Joint Secretaries to Mr. H. A. Chambers, 21 August 1916.

³³² TNA MH 47/5/2: Minute Book 2, 19 September 1916.

³³³ TNA MH 47/5/2: Minute Book 2, 26 September 1916.

³³⁴ TNA MH 47/5/2: Minute Book 2, 10 October 1916.

³³⁵ TNA MH 47/5/2: Minute Book 2, 24 October 1916.

One type of letter the Appeal Tribunal did not entertain was anonymous ones that concerned hearings. In the minutes for the Tribunal committee meeting on 23 August 1916, one such letter was acknowledged as having been received regarding the case of an appellant called E. R. Rose. No details of what was contained in the letter are given in the minutes and the letter has not been preserved in the Appeal Tribunal's correspondence. The minutes tersely declare that it was resolved that no action was to be taken.³³⁶

The Hearings' Procedures

The Appeal Tribunal's most important task was to decide cases that had come forward on appeal from the local tribunals. Both Rae³³⁷ and McDermott³³⁸ agree that the tribunals possessed substantial freedom not only to organise themselves, but also to determine how they would conduct their hearings. This freedom stemmed from the fact that they were essentially unregulated because neither the Military Service Act, nor the regulations for its implementation, made thorough provision for how tribunals at all levels ought to conduct them. At best, the Military Service Regulations (Amendment Orders SR&I) 1916 No. 53 stated that tribunal hearings ought to be held publicly, that objectors might be represented by a person of their choice, and that objectors might be able to question witnesses and the military representative who was contesting the application. Other than the Military Service Regulations, the tribunals were in receipt of

³³⁶ TNA MH 47/5/2: Minute Book 2, 23 August 1916.

³³⁷ Rae, *Conscience and Politics*, p. 99;

³³⁸ McDermott, *British Military Service Tribunals*, p. 4.

notes from exemplar cases judged by the Central Tribunal and distributed every now and then by the L.G.B. as guidance rather than prescription.³³⁹

The separation of the legislature and the executive from the judiciary has been and is a fundamental feature of British political and civic culture. Whitehall's reluctance to regulate the tribunals was a manifestation of this. However, it was also reinforced by the judiciary itself. A C.O. had brought a High Court Action against the Central Tribunal for not hearing appellants making appeals in person. On 18 April 1916, the High Court rejected the argument that the tribunals ought to adopt the High Court's own procedural standards for a criminal trial; it concluded instead that the tribunals ought to adhere to a sense of justice that was inherent within administrative law. The High Court additionally refused to state how hearings on grounds of conscience ought to be conducted and upheld the right of the Central Tribunal to judge cases without the appellant present.³⁴⁰ Its justification was that according to the 'Second Schedule of the Military Service (No. 2) Act, 1916, the Central Tribunal had the right to regulate its own procedure'³⁴¹

Rae is of the opinion that though the tribunals had much room for manoeuvre in determining their hearings' routines, those routines varied little between the tribunals. Hearings were held publicly, though the chairman had the power to clear the room of spectators. The press had access to hearings to report hearings which resulted in the many verbatim reports found in the local and national press. The appellant had the right

³³⁹ McDermott, 'The Work of the Military Service Tribunals', p. 30.

³⁴⁰ Rae, *Conscience and Politics*, p. 104.

³⁴¹ Ibid.

to be represented by a solicitor or a friend, though the presence of solicitors was rare. Witnesses could be called to testify to the truth of the appellant's case. 'Hearsay and opinion' were admissible as evidence, which of course could work both for and against the appellant.³⁴²

The Middlesex Appeal Tribunal indeed conformed to such a pattern. Its hearings were public as demonstrated by the Quaker publication, *The Friend*, which sent Quaker sympathisers to attend and report on hearings.³⁴³ The local press were also regularly present at hearings. For example, H. T. Hamson, the editor of the *Middlesex and Buckinghamshire Advertiser*, wrote to the Joint Secretaries of the Middlesex Appeal Tribunal to request that the Appeal Tribunal give him notice of when the Appeal Tribunal's sittings would take place.³⁴⁴ In response, the Joint Secretaries advised Hamson that notice had only been given to the press of the Appeal Tribunal's first sitting. To avoid a significant addition to their administrative workload, the Joint Secretaries informed Hamson that as the sittings would from now be frequent, it was not considered necessary to inform all the newspapers in Middlesex in writing. Instead, 'an intimation' would be given verbally to the members of the press attending hearings when future sittings would take place.³⁴⁵ An intimation was the best the Joint Secretaries could offer in the light of the need to make changes at the last minute as to when sittings would occur and when additional hearings had to be arranged suddenly.

³⁴² Ibid., pp. 99-100.

³⁴³ *The Friend* (10 March 1916), p. 138.

³⁴⁴ TNA MH 47/121/3: Postcard from H. T. Hamson, Editor of the *Middlesex and Buckinghamshire Advertiser* to the Clerk, Appeals Tribunal, 17 March 1916.

³⁴⁵ TNA MH 47/121/3: Letter from the Joint Secretaries of the Middlesex Appeal Tribunal to H. T. Hamson Esq., Editor of the *Middlesex Advertiser*, 18 March 1916.

The Appeal Tribunal respected the right of appellants to be represented by solicitors. When, for example, a solicitor by the name of A. Lloyd-Jones, wrote to the Appeal Tribunal on 5 August 1916 to ask whether his client might apply for an extension to his temporary extension given for domestic reasons,³⁴⁶ the Joint Secretaries replied that ‘a statement of the circumstances should be furnished for submission to the Appeal Tribunal’ and they would ‘come to a decision’ as to whether they would give ‘permission for a further application to be made.’³⁴⁷ The use of witnesses who gave opinions as to the sincerity of a man’s appeal was very noticeable in the case of Frank Balls who provided the written testimonies of friends and acquaintances who affirmed that Balls was a genuine Buddhist pacifist and conscientious objector.³⁴⁸

The Appeal Tribunal adopted certain procedures to make hearings less time consuming. Delays in hearing cases were reduced by the fact that cases were heard *in absentia*.³⁴⁹ It was the procedure of the Appeal Tribunal to hear cases involving solicitors first during the day.³⁵⁰ Why is not clear from the documentary record, but the decision may have been prompted by the initial anticipation that such cases might have been made complicated and drawn-out by the presence of a professional advocate and that it was best to give the first hours of hearings to these cases when the Tribunalists’ energy and concentration were at their best. To avoid time-consuming defences during hearings, solicitors were encouraged to present their defence in writing rather than in person.

³⁴⁶ TNA MH 47/121/8: Letter from A. Lloyd-Jones to the Joint Secretaries to the Appeal Tribunal, 5 August 1916.

³⁴⁷ TNA MH 47/121/8: Letter from the Joint Secretaries to A. Lloyd-Jones, 7 August 1916.

³⁴⁸ See e.g., MH 47/52/57: Letter from Dr Edmund J. Mills, 19 July 1918; Letter from D. B. Jayatilaka, 20 July 1918; Letter from Edward Greenly, 5 August 1918; Letter from Eric C. F. Collier, 4 August 1918.

³⁴⁹ TNA MH 47/121/7: Letter from the Joint Secretaries to Mr S. S. Parkyn, 5 July 1916.

³⁵⁰ TNA MH 47/121/10: Letter from the Joint Secretaries to Messrs Guedalla and Jacobson, Solicitors, re S. H. Davis, 12 October 1916.

Therefore, when Julius White, who was acting on behalf of Frank Smith, wrote to the Middlesex Appeal Tribunal to explain that he had not made in writing the grounds for Smith's appeal, as he hoped to explain 'personally...the further facts that have arisen',³⁵¹ the Joint Secretaries replied, stating 'that the grounds of the application should be submitted in writing and not made personally in court.'³⁵² In appeal cases where a specialised form of knowledge might have been needed to make a fair judgement, the Appeal Tribunal left such cases to the experts. Hence, appeals made by chemists were dealt with by the Middlesex Pharmaceutical Society.³⁵³

As a principle, re-hearings were not permitted, thus preventing the many requests for re-hearings such a practice would have encouraged. The first appellant recorded in the minute books to petition for a re-hearing was John Charles Day whose petition was presented at a committee meeting on Wednesday 28 June 1916. His request was denied.³⁵⁴ However, further appeals were permitted if the appellant wished to present new information pertaining to his case. T. C. Titchen and his employers, Messrs Parke Davies and Co., had written to the Appeal Tribunal requesting a further hearing on the basis that Titchen was fit only to do garrison duty at home. The request was granted.³⁵⁵

Reducing the Appellants' Workload

³⁵¹ TNA MH 47/121/10: Letter from Julius A. White to the Clerk to the County of Middlesex Appeal Tribunal, 3 October 1916.

³⁵² TNA MH 47/121/10: Letter from the Joint Secretaries to Julius White, Esq., 4 October 1916.

³⁵³ TNA MH 47/121/6: Letter from the Joint Secretaries to the Managing Director (name not visible due to damage to the letter), 16 June 1916.

³⁵⁴ TNA MH 47/5/1, Minute Book 1, 28 June 1916.

³⁵⁵ TNA MH 47/5/1: Minute Book 1, 10 July 1916.

The Appeal Tribunalists sought also to avoid unnecessary work for the appellants. For example, the appellant H. G. Dickins decided to accept his local tribunal's decision and withdrew his appeal to the Appeal Tribunal as he had the right to do under L.G.B. Circular R.89. In the event of his being called up by the Army, he had the right to make a further appeal within seven days of being called up. In such an event, the Appeal Tribunal wished to be informed immediately and his original appeal would be reinstated in the lists so that it would not be necessary for him to fill up another form.³⁵⁶

The Men Who Appealed

The surviving covering letters that accompanied the case papers sent by the local tribunals reveal the names of 3853 of the 8791 men who appealed their local tribunals' decision.³⁵⁷ They also reveal which tribunals provided the Appeal Tribunal with the most and least amount of casework and furnish important insights into the way in which the socio-economic and demographic nature of the locality in which the local tribunal was operating explained the readiness of men to seek exemption.

The surviving correspondence suggests that Tottenham was by far the greatest source of appeals, passing on 757 names of men from March 1916 to October 1918³⁵⁸ and that there could be significant variations between the local tribunals in terms of the number of appeals coming from them. Tottenham's appeal cases constituted just over 19.64% of the 3853 appeals listed in the correspondence. During the period of February 1916 to March 1917, 296 men are listed as appealing against the Tottenham Local Tribunal

³⁵⁶ TNA MH 47/121/7: Letter from the Joint Secretaries to H. G. Dickins, 14 July 1916.

³⁵⁷ TNA MH 47/143/2/09: Middlesex Appeal Tribunal: Statistics of Cases.

³⁵⁸ Tottenham is not represented in the November 1918 correspondence. See TNA MH 47/124/24.

alone,³⁵⁹ whereas the Local Tribunals at Southgate and Uxbridge managed to refer two cases each to Middlesex.³⁶⁰ Clearly, the demographic nature of the different Middlesex districts explains these significant variations with Tottenham a highly populated urban district close to the City of London, whereas Southgate and Uxbridge were rural areas. According to the surviving information, 731 men appealed against the Willesden Local Tribunal, a number that was second only to Tottenham. Willesden's prominence in the returns may therefore have more to do with social composition and demographics. Willesden had been traditionally a middle class suburb, but with the construction of the Metropolitan Railway in 1879, its population had expanded by 1906 from 18,500 to 140,000. Many of the new inhabitants were working class people who were employed by the Railway. Two thirds of the female population were homemakers and therefore dependent on their husbands' income.³⁶¹ Willesden's dense population, the working class nature of its inhabitants and the preponderance of one-income families therefore might explain why so many men were reluctant to be conscripted.

Seeking Advice over Conscientious Objectors

As seen in its correspondence with the Central Tribunal and the Surrey Appeal Tribunal, it was a working principle of the Appeal Tribunal to seek advice. It was the matter of the conscientious objector that worried the Tribunalists and caused them to

³⁵⁹ TNA MH 47/123/1: Letters from Reginald Coupland Graves, Clerk of the Tottenham Local Tribunal to the Joint Secretaries of the Appeal Tribunal for the County of Middlesex, 7 March 1916, 13 March 1916, 15 March 1916, 17 March 1916, 21 March 1916, 22 March 1916, 28 March 1917 and 31 March 1916.

³⁶⁰ TNA MH 47/123/1: Letter A. R. Woodbridge, Clerk of the Uxbridge Local Tribunal to the Joint Secretaries of the Appeal Tribunal for the County of Middlesex, 21 March 1916. Letter from A. E. Lauder, Clerk to the Southgate Local Tribunal to the Clerk to the Appeal Tribunal, 15 March 1915.

³⁶¹ Diane K. Bolton, Patricia E. C. Croot and M. A. Hicks, 'Willesden: Settlement and growth', in *A History of the County of Middlesex: Volume 7, Acton, Chiswick, Ealing and Brentford, West Twyford, Willesden*, ed. T. F. T. Baker and C.A. Elrington (London, 1982), pp. 182-204.

write on 28 March 1916 to the L.G.B. to ask for clarification as to what decisions it could render in cases of conscience. From the reply the Tribunal received, it is possible to ascertain what the Tribunal's concerns were. The first concerned what constituted work of national importance for which the conscientious objector could be charged to do in lieu of military service. I. E. Gibbon, writing on behalf of the Assistant Secretary for the L.G.B., advised the Appeal Tribunal that it was the decision of the Appeal Tribunal whether or not to adjourn or defer dealing with conscientious objector cases until the Committee on Work of National Importance had determined what work of national importance was, which it did on 14 April.³⁶² Until then, Gibbon declared it was the responsibility of the Tribunal to determine what it understood to be work of national importance. The Appeal Tribunal also wanted to know what sort of judgements it could render in appeals made by conscientious objectors. Gibbon clarified that it was the Tribunal's responsibility to decide whether a man ought to be exempted from combatant service only, or from all forms of military service, and whether in the latter case the exemption ought to be on condition that the man perform work of national importance. Gibbon insisted on one thing: that the Tribunal's certificates of exemption needed to specify the nature of the work which a conditionally exempted man had to perform.³⁶³

Conclusion

Much of this chapter has concerned the workings of the Appeal Tribunal which reflects the fact that most of the evidence in the archive pertains to the Appeal Tribunal, but there is sufficient evidence that has survived which reveals the relationship between the

³⁶² Rae, *Conscience and Politics*, p. 125.

³⁶³ TNA MH 47/121/3: Letter from I. A. Gibbon for the Assistant Secretary to the Secretary of the Middlesex Appeal Tribunal, 30 March 1916, Copy 33,947.I.1916.

Appeal Tribunal and the local tribunals. The Appeal Tribunal and those who established it possessed a marked degree of self-government in terms of who its members were, how it would organise itself to cope with the enormous caseload that was anticipated and how hearings would proceed. The impression the Appeal Tribunal presents is one of conscientious adherence to public duty. The members sought advice as how best to operate from the Central and Surry Appeal Tribunals. Nine out of the ten original members worked for the Appeal Tribunal for the duration of conscription whilst continuing to fulfil their professional duties and they were supported by two Secretaries and a faithful core team of administrators who probably were employees of the county council. The suspicion that the Tribunalists were beholden to the military who paid their expenses is not true of the Middlesex Appeal Tribunalists for they had few travelling expenses. The Central Tribunal's successful protest over the low scale of expenses the Army provided tribunals reinforces this point. In terms of the Middlesex System, the Appeal Tribunal was at the heart of a network of thirty-seven local tribunals. There was much diversity in the areas these local tribunals served, with some hearing cases from rural communities and others serving highly populated urban areas of London. All the tribunals relied upon existing local government institutions and resources with tribunals meeting in council buildings and even utilising council staff and stationery. The relationship between the Appeal Tribunal and the local tribunals was one in which the Appeal Tribunal respected the authority of the local tribunals in terms of their case decisions, but insisted on administrative efficiency and the correct interpretation of conscription law. Whereas the Appeal Tribunal did not alter most of the decisions of the local tribunals, it insisted on having in each case all the necessary papers and corrected the local tribunals' errors of judgement and administrative oversights. One of the most

significant problems which the Appeal Tribunal faced initially was the failure on the part of military representatives to provide written observations on cases going forward to appeal. The complaints of the Appeal Tribunal over this matter however soon disappears from the correspondence which suggests that the matter may have been resolved, or that the Appeal Tribunal accepted that where military representatives were concerned, the tribunals had no authority over them. The system was therefore a somewhat improvised, locally embedded and decentralised system staffed by volunteers who attempted to maintain a professional standard of judgement and efficiency in the face of enormous workloads. Analyses of policies and systems, however, do not provide an understanding of what it was like as an appellant to enter the system; neither do they provide an insight into what it was like to work as a tribunalist. It is to these experiential and subjective matters that this thesis now turns.

Chapter Three: The Experiences of Objection

Definitions and Perspectives

The theme of this chapter is the subjective experiences of all those who applied for exemption in Middlesex and how their experiences compare with what is known about the experience in other tribunal jurisdictions. For present purposes, the term ‘subjective experience’ is defined as the Middlesex appellants’ impressions of the objection process as determined by their personal feelings, preferences and opinions. This chapter is also concerned with the experiences of the Middlesex tribunalists whose responses were as emotionally pronounced as those of the appellants and which is a subject which has received little attention until recently within the historiography of the tribunals. The Appeal Tribunal’s records within the archive provide the most plentiful data concerning the subjective experiences of appellants and tribunalists alike and it is the consideration of this data that forms the core of this chapter. However, there are pieces of evidence that provide some understanding of the experience of objection of appellants at the local tribunal level. The objection process from the perspective of the appellant in this chapter is understood not only to be the experience of the hearing, but also the period of preparation preceding the hearing, the hearing decision and the impact of that decision upon the appellant after the hearing.

Those Denied Conscientious Objector Status

The Appeal Tribunal decided at its outset to whom it would not grant C.O. status. It drew up a list of the types of C.O. and their grounds for appeal which it would not consider in its ‘Guiding Principles’ document which it compiled on 16 March 1916. With the exception of international socialists who were excluded by Long from

consideration, these groups and grounds were neither proscribed by the Military Service Acts, nor by the L.G.B.; therefore the decision to deny them C.O. status was the autonomous decision of the Appeal Tribunal. The list makes interesting reading for it reveals the moral and political axioms of the Appeal Tribunalists and their desire not to be deceived by spurious conscience claims. The men who were denied C.O. status were those who claimed:

- ‘(a) That he is a Christian.
- (b) That he is a Christadelphian.
- (c) That he is a Bible student.
- (d) That he is an international socialist.
- (e) That he objects to taking the Military Oath.
- (f) That he objects to submit his will to another man.
- (g) That he has made an oath to GOD.
- (h) That he is regenerated by the Holy Ghost, etc.
- (i) That he objects to all Military Service, not only combatant service, etc., etc.’³⁶⁴

As shall be seen in the next section of this chapter, socialist objectors were consistently denied exemption by the Appeal Tribunal and by most tribunals throughout Britain. The issue of the Christadelphians and Bible students will also be treated later in this chapter and as shall be seen, contrary to what the ‘Guiding Principles’ stated at the outset, the Appeal Tribunal was prepared to exempt such men. The other grounds on the list appear to be those grounds which the Appeal Tribunal regarded as insufficient, such as an oath made to God, too vague, such as the statement that a man was a Christian, or incapable of verification, such as the exotic claim that a man had been regenerated by the Holy Ghost.

The Experience of the Absolutists

³⁶⁴ TNA MH 47/144/3: Appeal Tribunal-Guiding Principles, 16 March 1916.

British society was very unsympathetic to those who absolutely refused to contribute to the war effort. In the minds of the wartime generation, there was something shameful about a physically able young man doing nothing for his nation in its dire need.

Ironically, despite the Germanophobia of British culture, it was a form of Hegelianism which characterised thinking about the relationship between the state and the individual.

Sir Henry Jones, an influential moral philosopher at the University of Glasgow, summed up the obligations of the individual to the state in the following terms:

‘the state had the right to compel, provided it stood for its own welfare...It owned us, we belonged to it. We derived the very substance of our soul from the organized community in which we lived and which we called the State.’³⁶⁵

The individual therefore owed his or her existence to the state and was obliged to protect its existence when that was threatened. Lloyd George demonstrated there was an ominous limit to his liberalism when he declared that:

‘with regard to those who object to shedding blood it is the traditional policy of this country to respect that view, and we do not propose to part from it, but in the other case [absolutists] I shall only consider the best means of making the path of that class a very hard one.’³⁶⁶

The Middlesex experience mirrored this national mood exactly. Of all appellants, it was the absolutist conscientious objectors who had the worst experience at the hands of the Middlesex tribunal system, and among the absolutists, it was the political objectors who seemed to have been most reviled. Not only did all absolutists never receive an absolute exemption on appeal, but also they were subjected to hostile questioning during their hearings.

³⁶⁵ David Boucher and Andrew Vincent, *A Radical Hegelian: The Political and Social Philosophy of Henry Jones* (Cardiff: University of Wales Press, 1993), p. 163.

³⁶⁶ Keith Robbins, ‘The British Experience of Objection’, p. 704.

However, the experience of applying for exemption on grounds of conscience was supposed to be an objective process regardless of what tribunalists thought of the appellant's opinions. Long clarified that the tribunals were to judge impartially all cases whilst bearing in mind the nation's needs for men in uniform.³⁶⁷ With regards specifically to C.Os., Long called on tribunals to ensure that 'every consideration' was 'given to the man whose objection genuinely rests on religious or moral conviction.'³⁶⁸ It is significant that Long omitted political objectors from those he wished to see receive such consideration. Long's attitude was in keeping with the attitude of the War Office which viewed political beliefs such as revolutionary socialism as unacceptable grounds for exemption and which would have protested very strongly if the socialist objector had been recognised by the tribunals.³⁶⁹ It is not possible to evaluate how far the hostility of such military leaders as Kitchener, Sir Nevil Macready and Sir Wyndham Childs to political objectors influenced the tribunals.³⁷⁰ However, the middle class tribunalists did not need much prompting in their hostility to young pacifists who dared to question the War's legitimacy.³⁷¹ It was the Central Tribunal's ruling in May 1916 denying political objection was legitimate³⁷² that reinforced the determination of tribunals to adopt the same attitude. The Central Tribunal refined its decision by recognising the distinction between objectors whose political objections were associated with opposition to all wars and who therefore deserved consideration, and those whose objection was invalid because it was a socialist rejection of the Great War's capitalist nature. But this latter ruling by the Central Tribunal had a negligible effect on how the

³⁶⁷ Rae, *Conscience and Politics*, p. 54.

³⁶⁸ TNA MH 47/142/1/1: L.G.B. Circular R 36, 3 February 1916.

³⁶⁹ Rae, *Conscience and Politics*, p. 116.

³⁷⁰ Ibid.

³⁷¹ Ibid.

³⁷² Ibid.

lower tribunals operated: most political objectors had already been conscripted sometime before July and the tribunals 'were anyway firmly wedded to their reluctance to recognize a political objection as conscientious, however closely it was associated with religious or moral objections.'³⁷³

The Middlesex Appeal Tribunal was no exception to the general hostile treatment of political absolutists. The Appeal Tribunal attracted as early as April 1916 criticism in the Commons for its handling of these cases. In a speech on 6 April 1916, the liberal MP for Blackburn, Philip Snowden, complained that the Middlesex Appeal Tribunal had dealt unfairly with a man named Ward. Snowden declared that 'the chairman, who is a King's Counsel, said that the applicant was a Socialist and could not have a conscience.'³⁷⁴ The chairman in question was Snowden's Conservative opponent, Herbert Nield, who was the Appeal Tribunal's sole barrister.

However, absolutists of all stripes, whether political, religious and moral, suffered the most among conscientious objectors, and indeed of all classes of appellants, who appeared before the Middlesex Appeal Tribunal because of its decision never to award absolute exemption to C.Os. One reason for this was the erroneous conclusion on the part not only of the Appeal Tribunal, but also of most tribunals,³⁷⁵ that absolute exemption was not permitted by the Military Service Act. The most that the Middlesex Appeal Tribunal and most other tribunals concluded could be granted to C.Os. was

³⁷³ Ibid., p. 117

³⁷⁴ Philip Snowden, *British Prussianism*, p. 18.

³⁷⁵ McDermott, *British Military Service Tribunals*, p. 38.

exemption from combatant service, which could take the form either of non-combatant service with the military, or performing work of national importance.³⁷⁶

The causes of this confusion were Long's contradictory pronouncements and the nebulous expression of the First Military Service Act. According to Long, there were exceptional cases in which absolute exemption might be granted once the tribunal judging the case was certain it had all the facts. Long unfortunately never clarified what he meant by exceptional cases, thereby implying that absolute cases were uncommon.³⁷⁷ Long attempted to clarify the situation at a conference of appeals tribunal chairmen on 27 March 1916. On this occasion, Long affirmed that absolute exemption was available on any ground.³⁷⁸ However, in the Commons on 6 April Long explained that 'total' objection could only be given to a conscientious objector if he was performing work of national importance.³⁷⁹ Conscientious objectors therefore could only be conditionally exempted, and there was no absolute exemption possible after all.

When tribunalists sought clarification from the First Military Service Act, they found only further incertitude due to the tortuous syntax in which the provision for C.Os. was expressed. According to the Act,

Any certificate of exemption may be absolute, conditional or temporary as the authority by whom it was granted think best suited to the case, and also in the case of an application on conscientious grounds, may take the form of an exemption from combatant service only, or may be conditional on the applicant being engaged in some work which in the opinion of the tribunal dealing with the case is of national importance.'³⁸⁰

³⁷⁶ Rae, *Conscience and Politics*, p. 118.

³⁷⁷ McDermott, *British Military Service Tribunals*, p.36.

³⁷⁸ Ibid.

³⁷⁹ Ibid., p. 37.

³⁸⁰ Military Service Act, 1916, 2 (3).

The interpretation of the Act hinged on whether ‘the word also derogated or supplemented the previous wording.’³⁸¹ In other words, were conscientious objectors also to be granted absolute, conditional or temporary exemptions, or were their exemptions only to be from non-combatant service, or conditional on performing nationally vital work. Long’s statement on 6 April suggested the latter.³⁸² So too did the L.G.B.’s. instructions to the tribunals which cautioned that ‘The exemption should be the minimum required to meet the conscientious scruples of the applicant.’³⁸³

Organisations that represented the interests of conscientious objectors attributed the worst of reasons to the reluctance of the Central Tribunal and of the appeal and local tribunals to grant absolute exemption in conscience cases. The No-Conscription Fellowship, for example, attributed negligence and incompetence to the tribunals when it wrote to the Prime Minister stating that C.Os. were being criminalised because the law was not being applied.³⁸⁴ The Quakers’ publication *The Friend* called the decision to refuse absolute exemption to C.Os. ‘an astonishing instance of perversity and ignorance.’³⁸⁵

The Middlesex Appeal Tribunal’s decision to refuse absolute exemption to C.Os. seems to have been as much the result of misunderstanding as it was prejudice, but it was neither negligence nor ignorance. The Appeal Tribunalists despised pacifists and C.Os.

³⁸¹ McDermott, *British Military Service Tribunals*, p. 37.

³⁸² Ibid.

³⁸³ TNA MH 47/142/1/1: L.G.B. Circular R. 36, 3 February 1916.

³⁸⁴ Rae, *Conscience and Politics*, p. 120.

³⁸⁵ Ibid.

and it certainly suited their frame of mind that absolute exemption was out of the question, but there is good reason to think that the Appeal Tribunal investigated the matter with some measure of judicial impartiality. In his capacity as a solicitor and barrister and as an MP who had voted for the First Military Service Act, Nield, the Chairman of the Appeal Tribunal's Second Session, took on the task of preparing for his fellow appeal tribunalists an explanatory memorandum as to what sort of exemption he thought the Military Service Act provided for conscientious objectors. It was Nield's expert opinion that as the C.O. sought exemption from combat, the tribunal was limited to granting him exemption from combatant service. Part of the memorandum is worth quoting in order to understand from its tone and expression that Nield was undertaking an honest inquiry into the provisions of the Act:

‘With regard to sub-section (1) it will be observed that the objection is limited to “undertaking combatant service”. In view of this limitation, the ground of objection would be fully met by the granting of exemption from combatant service, and it would appear that the tribunal would not have the power under the section to grant an exemption from anything but combatant service. In other words the tribunal can grant total exemption on either of the grounds (a), (b) or (c) but when a claim is made under (d) the power to grant exemption is limited to combatant service because the ground of application is objection to combatant service.’³⁸⁶

Consequently, the Middlesex Appeal Tribunal at its committee meeting on 29 March 1916 expressed its resolution on the matter in the following way: ‘the maximum exemption to be granted to C.Os. be exemption from combatant service unless the appellant is already engaged in work which the tribunal consider to be of national importance and then so long only as he remains in that work.’ The Weekly Statistics and Returns of Cases’ categories of cases for the Appeal Tribunal were worded to

³⁸⁶ TNA MH 47/144/3: Miscellaneous Memoranda etc: Claims for Exemption on grounds of Conscientious Objections.

reflect this decision.³⁸⁷ Judgements rendered in the case of C.Os. were classified as to whether absolute or temporary exemptions had been given ‘from all kinds of Service conditional on doing work of national importance’ and whether absolute or temporary conditions had been given ‘from combatant service only.’³⁸⁸ Thus, the Appeal Tribunal’s interpretation of absolute exemption was not absolute at all, but rather a ‘permanent’ exemption from one form of war service, namely combat, and one that was conditional upon the C.O. doing something for the war effort, whether that was non-combatant service or work of national importance. The decision never to grant absolute exemption on conscience grounds was maintained consistently by the Appeal Tribunal for the duration of the War.³⁸⁹

Other factors explain the tribunals’ refusal to award absolute exemption to C.Os. On 18 April, the High Court issued a ruling that set a precedent against absolute exemption. In the case of *Rex v. Central Tribunal ex parte Parton*, the judges concluded that under the wording of the existing Act, tribunals had no right to issue conscientious objectors with anything other than non-combatant exemption.³⁹⁰ Partly in response to the High Court’s adjudication, the Military Service Act (Session 2) of May 1916 affirmed that conscientious objectors were eligible for absolute, conditional and temporary exemption. By the time this second Act was introduced, however, many absolutists had been permanently denied.³⁹¹

³⁸⁷ TNA MH 47/143/1: The Weekly Statistics and Returns.

³⁸⁸ TNA MH 47/143/1: Return showing the number of cases dealt with up to and including the 30 June 1916.

³⁸⁹ TNA MH 47/143: Middlesex Appeal Tribunal: Statistics of Cases.

³⁹⁰ *Ibid.* p. 38.

³⁹¹ *Ibid.*

Another reason identified for the refusal of tribunalists to grant absolute exemption was their fear of provoking public opinion against themselves. If the exempted man remained living within the local community, he too would become the victim of local hostility.³⁹² More important perhaps was the belief that to give absolutists what they wanted would encourage others to attempt to avoid any contribution to the war effort by feigning conscientious objection. Most importantly was the anger and disbelief that patriotic tribunalists felt in the face of those who wished to contribute nothing to the war effort when others were making great sacrifices.³⁹³

The personal cost to an absolutist of the Middlesex Appeal Tribunal's refusal to award absolute exemptions could be grave indeed if the absolutist continued to refuse to compromise his principles. In mid-March 1918, *The Friend* reported that the Quaker E. W. Johnston was court-martialled for a third time for refusing to obey military orders. Johnston argued that he ought not to be in prison in the first place, but was there because Nield, who had presided at Johnston's appeal, had stated many times to appellants that he had no power to give absolute exemption under the Military Service Acts.³⁹⁴

Nationally, Johnston was one of 985 men in total who had taken an absolute position.³⁹⁵ This was very small when compared with the 16,500 who were estimated to have applied for exemption on the premises of conscience,³⁹⁶ but by June 1917, 600 of them

³⁹² Ibid.

³⁹³ Boulton, *Objection Overruled*, p. 124.

³⁹⁴ *The Friend* (15 March 1918), p. 175.

³⁹⁵ Rae, *Conscience and Politics*, p. 201.

³⁹⁶ Ibid., p. 71.

were serving a consecutive prison sentence. The harshness of prison shocked the absolutists³⁹⁷ and the experience of incarceration proved to be ‘shattering’ for them.³⁹⁸ It was their repeated imprisonment for their refusal to submit to military and civilian discipline that eventually caused a public outcry. In response, the Government relented in its treatment of them and on 4 December 1917, Curzon informed the House of Lords that the Army Council had decided to transfer to the Reserve those absolutists whose health was poor.³⁹⁹ As the War Office had no intention of deploying these men again, their release was tantamount to a complete exemption.⁴⁰⁰ 333 absolutists were released from prison over the next eighteen months amidst fierce criticism from those who opposed the release of shirkers and from those who believed that the release was not being fairly administered.⁴⁰¹

The Army Council and Lords Derby and Milner laid the blame for the problem of conscripted absolutists at the door of the tribunals, accusing them of having failed to give the absolutists the total exemption the law permitted them to have.⁴⁰² They certainly had a point, though the tribunals were not directly responsible for the degradations absolutists faced once conscripted and their repeated imprisonment.

William Hayes Fisher, Long’s successor as President of the L.G.B., chose to investigate and on New Year’s Day 1918, sent circular R. 168 to the Central Tribunal and all lower tribunals asking whether there had been,

³⁹⁷ Keith Robbins, ‘The British Experience of Objection’, pp. 699-700.

³⁹⁸ Ibid., p. 700.

³⁹⁹ Rae, *Conscience and Politics*, p. 224.

⁴⁰⁰ Ibid., pp. 224-5.

⁴⁰¹ Ibid., pp. 225-6.

⁴⁰² Ibid., p. 121.

‘any men who claimed exemption on the grounds of conscientious objection and who were refused absolute exemption, not because the tribunal considered that such exemption was not justified in the cases in question, but because the tribunal were under the impression that they had no power to grant absolute exemption in such cases’.⁴⁰³

The Middlesex Appeal Tribunal’s Second Section held a committee meeting on 8 January to consider its response to Hayes Fisher’s letter. Those present were Devonshire and Dobson with Burt replacing the absent Nield as Chairman. Rather than admit their embarrassing misreading of the First Military Service Act and their deliberate refusal to grant absolute exemption as stipulated by the Second Act, the Second Section resolved to reply that ‘all cases of conscientious objectors have been dealt with on their merits, the Appeal Tribunal having always held that they have power to grant absolute exemption in these cases.’⁴⁰⁴ The First Section, consisting of Regester, De Salis, Sharpe, Buckmaster and Hewlett, met on Thursday 10 January 1918 and ratified the resolution.⁴⁰⁵ However, at a committee meeting of the Second Section on Wednesday 16 January 1918 at which Nield, Strafford, Burt and Dobson attended, the Secretary reported that since the last meeting of the Second Section on 8 January 1918, Nield had intimated that he did not agree with the resolution that the Appeal Tribunal had always been aware that they had the power to grant absolute exemption because ‘in the early days of the Tribunal they had held the contrary opinion and had given decisions to this effect.’ Nield was overruled and the Second Section resolved that the letter to the L.G.B. would state that conscientious objectors’ cases had been dealt with on their merits, and no mention was to be made in the letter as to the view of the Tribunal as to

⁴⁰³ TNA MH 47/142/5/2: L.G.B. Circular R. 168, 1 January 1918.

⁴⁰⁴ TNA MH 47/5/5: Minute Book 5, 8 January 1918.

⁴⁰⁵ TNA MH 47/5/5: Minute Book 5, 10 January 1918.

their powers to give total exemption.⁴⁰⁶ The First Section ratified this resolution.⁴⁰⁷ The impression given therefore was that the Appeal Tribunal had never failed to give conscientious objectors what they deserved and they had interpreted the law correctly, even though the Tribunalists had misunderstood the legislation initially. On 23 January 1918, the Joint Secretaries replied simply stating that the Appeal Tribunal had ‘considered’ circular R.168 and that ‘all cases of conscientious objectors which have come before the Appeal Tribunal have been dealt with on their merits.’⁴⁰⁸

Nield’s integrity over the matter of wrongly conscripted absolutists was rare, but the lack of integrity his fellow tribunalists showed was not, for the great majority of tribunals claimed in response to Hayes Fisher that they had always been aware of their power to grant absolute exemption and their decisions to grant conditional exemption instead were the result of their judging each case fairly on its own merits. The Camberwell Local Tribunal, for example, presented the same response to Hayes Fisher as the Middlesex Appeal Tribunal when it wrote that it had been aware of its capacity to award absolute exemption, but that it had made it its policy to award conditional exemption instead.⁴⁰⁹ The Central Tribunal, which had done much to reinforce the tribunals’ refusal to grant absolute exemption, excused itself in similar terms. The Tribunalists wrote that they had,

‘never been in doubt as to their power to grant absolute exemption; they were however very strongly of the opinion that in granting exemption on the condition that the man took up work of national importance to their satisfaction, they were granting it in a form which, in the words of the Act, “was best suited to the case”’.⁴¹⁰

⁴⁰⁶ TNA MH 47/5/5: Minute Book 5, 16 January 1918.

⁴⁰⁷ TNA MH 47/5/5: Minute Book 5, 17 January 1918.

⁴⁰⁸ TNA MH 47/122/14: Letter from the Joint Secretary to I. G. Gibbon, 23rd January 1918.

⁴⁰⁹ Rae, *Conscience and Politics*, p. 121.

⁴¹⁰ TNA MH 47/3/1: Report of the Central Tribunal, 1919, p. 12.

So determined were the tribunals to avoid making an admission of error over the absolutists, and perhaps so ready were the L.G.B. and the Scottish Office to believe them and not press the point, that the Board and the Scottish Office were able to conclude that their inquiries had not found any evidence that absolutists had been denied total exemption because the tribunals had believed they had no power to grant such an exemption.⁴¹¹ The conclusion of the matter was symptomatic of the measure of sovereignty the tribunals could exercise. From the perspective of imprisoned absolutists, it was the central state which had attempted to guarantee their liberty of conscience rather than local and provincial bodies which had been set up to protect those liberties against the state.

The Case of the Christadelphians

It was the Government's policy to drive a wedge between the religious and the political dissenters by recognising the legitimacy of the former's objection and the illegitimacy of the latter. Religious objectors welcomed this distinction, as they were less radical than their political counterparts and were concerned that their cause was being confused with socialist objection.⁴¹² A religious conscientious objectors' experience of objection was partially determined by which church or sect he belonged to and whether their membership pre-dated the War. Those who were long-standing members of religious communities with a traditional and well-known witness against war were more likely to

⁴¹¹ Rae, *Conscience and Politics*, p. 122. For the respective reports from the Local Government Board and the Scottish Office, see 47th Annual Report of the L.G.B. 1917-1918 (Cd. 9157), Pt. IV, p. 51, and SHHHD 25478s/2447A.

⁴¹² Brock Millman, *Managing Domestic Dissent in First World War Britain* (London and Portland, Oregon: Frank Cass Publishers, 2000), p. 195.

achieve exemption, though not necessarily the sort of exemption they desired.⁴¹³ The Middlesex Appeal Tribunal thus recognised the Baptists,⁴¹⁴ the Salvation Army⁴¹⁵ and the Quakers⁴¹⁶ as legitimate conscientious objectors. As for the lesser-known sects, the tribunals had to decide whether there was evidence of conscientious objection in their theology and praxis. In the case of the Tolstoyan sect, the Appeal Tribunal decided that their pacifist witness was sufficiently established to deserve the right to appeal as conscientious objectors.⁴¹⁷ As has been noted earlier in this chapter, the Appeal Tribunal decided that the claims to be a Bible student or merely to be a Christian were too vague and therefore did not merit recognition as authentic pacifism. In the case of Christian Science, the Central Tribunal decided there was ‘no evidence of conscientious objection within the meaning of the Military Service Acts’ and the tribunals nationally followed suit.⁴¹⁸

One sect whose objector status required investigation was the Christadelphians. In anticipation of conscription’s introduction, the Christadelphians petitioned Parliament on 11 February 1915.⁴¹⁹ The petition described Christadelphian theology in apocalyptic and literalist terms. Members of the sect anticipated the ‘early advent of Christ to set up a Divine Government over all the earth’. To establish heaven on earth, the Christadelphians were prepared to fight in the Lord’s army, but they were not prepared to serve in human armies for the Bible forbade the ‘bearing of arms’ and commanded

⁴¹³ James McDermott, *British Military Service Tribunals*, p. 47.

⁴¹⁴ TNA MH 47/68/6: Case of Archibald Montague Mather, M2908, February 1917.

⁴¹⁵ TNA MH 47/68/8: Case of Edgar Railton Parker, M2993, January 1917.

⁴¹⁶ TNA MH 47/67/21: Case of Alexander Sim, M1213, June 1916.

⁴¹⁷ TNA MH 47, Case of Arthur Ernest Cates, M452, April 1916.

⁴¹⁸ TNA MH 47/1: Minutes of the Central Tribunal, 20 July 1916.

⁴¹⁹ John Botton, ‘Reflections on the Great War: The War and everyday ecclesial life’, reprinted in *The Christadelphian*, March 2015.

them not to kill.⁴²⁰ However, the Christadelphians were alternativists in that they were prepared to perform war work, but only under civilian authority.⁴²¹ After meeting with Frank Jannaway, a leading member of the South London Ecclesia on 4 April 1916, the Central Tribunal set a precedent for the other tribunals. It ruled that once a tribunal had accepted that the appellant was ‘a bone fide Christadelphian’ whose membership of the sect preceded the War, the appellant was to be granted ‘exemption from combatant service only’ on the condition that the appellant undertook within twenty-one days of his exemption work which was not supervised by the military, but which was approved as nationally important and for as long as the appellant continued in such work under such conditions.⁴²² Most tribunals ignored the Central Tribunal’s judgement and refused to regard Christadelphians as deserving of exemption.⁴²³

The Middlesex Appeal Tribunal met on 19 April 1916 to decide what their policy was to be towards the Christadelphians. De Salis asserted that the Appeal Tribunal should follow the Central Tribunal’s example and regard Christadelphians as having good grounds for conscientious objection. The motion was seconded, but the vote was lost. It was then proposed and seconded that the Tribunal ought not to be bound by the Central Tribunal’s decision. This motion was also defeated. A compromise was finally reached when it was decided rather loosely that ‘each case should be dealt with on its own merits.’⁴²⁴ The Appeal Tribunal therefore chose not to grant automatic conscientious objector status to genuine Christadelphians and reserved for itself room to exempt or

⁴²⁰ F. G. Jannaway, *Without the Camp: being the story of why and how the Christadelphians were exempted from military service* (London: privately published, 1917), pp. 32-5.

⁴²¹ James McDermott, *British Military Service Tribunals*, p. 48.

⁴²² TNA MH 47/1: Minutes of the Central Tribunal, 6 April 1916.

⁴²³ McDermott, *British Military Service Tribunals*, p. 48.

⁴²⁴ TNA MH 47/5/1: Minutes of the Middlesex Appeal Tribunal, 19 April 1916.

reject as it saw fit. When the Appeal Tribunal chose to exempt Christadelphians, it followed the Central Tribunal's example by exempting them from military service conditional upon their performing work of national importance, which was the exemption they desired.⁴²⁵ The Appeal Tribunal, however, was not prepared to reconsider the appeals of Christadelphians it had dismissed before the Central Tribunal had made public its policy. At a meeting on 2 May 1916 at which nine of the ten tribunalists were present, including de Salis who had proposed that Christadelphians be accorded conscientious objector status, it was concluded that the Tribunal would not reopen their cases.⁴²⁶

The decision not to reopen cases probably was designed to prevent an influx of requests by both Christadelphians and other types of appellants to reopen their cases.

Nevertheless, the sense of injustice that was felt by the Christadelphians of Middlesex must have been particularly sharp in the case of such model appellants as Montague Jackson. Jackson lived in Cricklewood and had received a notice from the Recruiting Officer at Cricklewood to join the Army. On 27 April 1916. Montague Jackson wrote to the Appeal Tribunal to inform them of this and remind them of the Central Tribunal's practice of allowing Christadelphians twenty-one days to find work of national importance. He 'respectfully' submitted that he was known to the Central Tribunal for his name was 'in the list of Christadelphians in the hands of the Central Tribunal.'

Jackson had even found work of national importance near Maidstone and hoped that the

⁴²⁵ TNA MH 47/5/1: Minute Book 1, 8 May, 1916.

⁴²⁶ TNA MH 47/5/1: Minute Book 1, 2 May 1916.

Appeal Tribunal would approve of that work.⁴²⁷ None of this moved the Appeal Tribunal to reconsider his case and their response was to reply laconically that it would not ‘re-open the matter’.⁴²⁸

The Experiences of Adherents to Minority Faiths

Those followers of obscure religions felt keenly the pressure to educate the tribunalists as to what they believed, that they deserved exemption because their theology entailed a pacifist stance and if they were ministers of their faith, they were obliged to prove their status also. The two following cases also demonstrate as a general principle for appellants that preparing for the hearing was a collective experience in that the objector might call upon friends, relatives and sympathetic colleagues and acquaintances to testify on his behalf. They also remind us that the experience of objection did not consist only of the hearing itself, but began with the preparation for it.

Hubert Thackway, a minister with the International Bible Students’ Association, or Jehovah’s Witnesses as they are now commonly known, took no chances with the Ealing Local Tribunal and provided a significant amount of evidence in support of his application. Thackway provided correspondence from the International Bible Students’ Association (henceforth known as the I.B.S.A.) containing the news of successful test cases of Jehovah Witnesses who had been refused exemption and had taken their cases

⁴²⁷ TNA MH 47/121/4: Letter from Montague W. Jackson to the Middlesex Appeal Tribunal, 27 April 1916.

⁴²⁸ TNA MH 47/121/4: Letter from the Joint Secretaries to the Appeal Tribunal for the County of Middlesex to M. W. Jackson, 3 May 1916.

to court.⁴²⁹ To prove he was an elder in the Jehovah's Witness church, Thackway furnished a pamphlet published by the I.B.S.A. advertising Thackway's lecture titled 'Multitudes Mourning! Does God Care?' which took place at the Fulham Town Hall on 26 November 1916. The document was particularly useful as it contained Thackway's photograph and short biography which stated that he was a regular lecturer for the I.B.S.A.⁴³⁰ Thackway additionally enclosed with his application a typed page explaining reasons in support of his application,⁴³¹ six letters attesting to his Christian character and service, a joint letter signed by forty people confirming the same and five copies of printed announcements of his lectures.⁴³² Though Thackway's evidence did not convince the Ealing Local Tribunal that he was a genuine C.O., it was enough to sway the Appeal Tribunal which granted him work of national importance, though not the absolute exemption he desired.⁴³³

Frank Balls was in a more disadvantageous position than Thackway for he was a Buddhist. Like Thackway's case, though more so, his appeal case⁴³⁴ demonstrates how time-consuming and probably nerve-racking the process of applying for exemption could be for members of very obscure religious groups. Balls appeared before the Middlesex Appeal Tribunal in November 1918 after having had his case dismissed by

⁴²⁹ TNA MH 47/68/12: Hubert Thackway M3576: Letter from the London branch of the International Bible Students' Association to Mr H. C. Thackway, 15 November 1916; 'SHORTHAND WRITER'S NOTES OF SHERIFF ORR'S JUDGMENT [sic] In Complaint at the instance of THE PROCURATOR FISCAL, EDINBURGH against James Frederick Scott; Letter from the London branch of the International Bible Students' Association to Mr H. C. Thackway, 17 November 1916.

⁴³⁰ TNA MH 47/68/12: Hubert Thackway M3576: 'MULTITUDES MOURNING! DOES GOD CARE?'

⁴³¹ TNA MH 47/68/12: Hubert Thackway M3576: Reasons in support of application for exemption, 21 June 1916.

⁴³² TNA MH 47/68/12: Hubert Thackway M3576: SUMMARY OF DOCUMENT ATTACHED TO APPLICATION FOR EXEMPTION FROM MILITARY SERVICE. JUNE 21. 1916.

⁴³³ TNA MH 47/68/12: Hubert Thackway M3576: Application as to Exemption, 21 June 1916; Notice of Decision, 4 May 1917.

⁴³⁴ TNA MH 47/52/57.

the Finchley Local Tribunal. The narrative of his application for conditional exemption from military and non-combatant service began in 1916 when he appeared before the Battersea Local Tribunal and the Appeal Tribunal who both denied him exemption.⁴³⁵ That he was not in uniform or some form of non-combatant role was explained during Balls' second request for exemption to the Finchley Local Tribunal which due to a change of address was now his Local Tribunal. In a letter⁴³⁶ to the Secretary of the Ministry of National Service, Balls explained that the failure of his appeal in 1916 had been overridden by a certificate of exemption⁴³⁷ because of his work as a second division clerk for the Board of Agriculture and Fisheries.⁴³⁸ The Board was able to issue certificates of exemption as it was a Government department under Section 2 (2) of the Military Service Act 1916 and Balls was regarded as 'indispensable'.⁴³⁹ His exemption was conditional on his remaining employed with the Board,⁴⁴⁰ but the Board had informed him that they were releasing him on 8 August 1918⁴⁴¹ and he therefore would be liable to conscription. The deadline for applying for exemption was 12 August 1918. The Ministry of National Service had been established in March 1917 and in August of that year had been given control over military and civilian manpower.⁴⁴² This was a new institution to Balls and his application therefore began with a letter to the Secretary of the Ministry of National Service asking whether he needed to seek the Ministry's

⁴³⁵ TNA MH 47/52/57, R43 Notice of Appeal, 8 November 1918.

⁴³⁶ TNA MH 47/52/57: Letter from Frank Balls to the Secretary of the Ministry of National Service, 8 August 1918.

⁴³⁷ TNA MH 47/52/57: Certificate 1, 1 March 1916.

⁴³⁸ TNA MH 47/52/57: R43, Notice of Appeal, 8 November 1918.

⁴³⁹ Ibid.

⁴⁴⁰ Ibid.

⁴⁴¹ TNA MH 47/52/57: Letter from Frank Balls to the Secretary of the Ministry of National Service, 8 August 1918.

⁴⁴² Rae, *Conscience and Politics*, p. 240.

permission before making his application.⁴⁴³ The Secretary replied informing Balls that his course of action was to lodge his application with the clerk of his local tribunal. If the clerk accepted the application, it would be heard at the local tribunal. If the application required the Ministry of National Service's consent, Balls was advised to ask the clerk to mark it with the phrase 'consent required' and then to take it to the Local National Service Representative.⁴⁴⁴ The National Service Representative, B. Todd, accepted Balls' application for exemption and the Clerk to the Finchley Local Tribunal was notified on 23 September 1918.⁴⁴⁵ As Balls' application was made after the deadline of 12 August, permission was sought from the Assistant Director of National Service for the West London and District Area for Balls to make an out of time application to the Local Tribunal. The Assistant Director granted permission on condition that Balls made an out of time application within three days of his letter dated 28 September 1918 to the Finchley Tribunal.⁴⁴⁶

How well Balls had prepared himself for his case at Battersea Local Tribunal and the Appeal Tribunal is not known, but knowing that he had already been refused exemption played no doubt an important part in leading Balls to prepare in a meticulous way for his hearing at Finchley. Testimony from third parties as to the sincerity of an appellant's objection provided important evidence and Balls deployed this tactic impressively. Balls had a busy summer enlisting help for the letters testifying to his convictions date from July and August 1918. Balls was a well-connected man capable of thinking tactically,

⁴⁴³ Ibid.

⁴⁴⁴ TNA MH 47/52/57: Letter to Frank Balls from Secretary of the Ministry of National Service, 17 August 1918.

⁴⁴⁵ TNA MH 47/52/57: MNS R. 3237.

⁴⁴⁶ TNA MH 47/52/57: Letter to the Clerk to the Finchley Local Tribunal, 28 September 1918.

for the six men who responded to him had as good a chance as any at impressing a tribunal. Of the six, four were practising Buddhists: a fellow member of the Buddhist Society, Dr Edmund J. Mills, who was a Fellow of the Royal Society;⁴⁴⁷ a Ceylonese barrister, D. B. Jayatilaka, who was the President of Gray's Inn's Buddhist Society;⁴⁴⁸ Edward Greenly who was a Fellow of the Geographical Society;⁴⁴⁹ and Eric C. F. Collier.⁴⁵⁰ Collier was an exception to the other Buddhists for he was not a pacifist and had served in the War. By including his letter, Balls risked undermining his argument; however, to have the support of a former soldier may have been invaluable in Balls' eyes in rebutting any suspicion that he was a coward. Collier's support, however, was dubious for though he was 'quite ready to certify' that Balls was 'a genuine professing Buddhist' and was so 'before the War', he devoted most of his testimony to giving Balls advice on what type of exemption he ought to try for and arguing that the War was just by the teachings of Buddha.⁴⁵¹ The other two referees were E. G. Haygarth Brown and Lieutenant Colonel J. Cornelius. Haygarth Brown was the Superintending Inspector at the Board of Agriculture and Fisheries and Cornelius its General Inspector. Both men were well suited to testify to Balls' views and sincerity because they supervised his work.⁴⁵² Clearly, Balls did not miss the opportunity to have a retired senior army officer support his case which gave it greater substance.

⁴⁴⁷ TNA MH 47/52/57: Letter from Dr Edmund J. Mills, 19 July 1918.

⁴⁴⁸ TNA MH 47/52/57: Letter from D. B. Jayatilaka, 20 July 1918

⁴⁴⁹ TNA MH 47/52/57: Letter from Edward Greenly, 5 August 1918.

⁴⁵⁰ TNA MH 47/52/57: Letter from Eric C. F. Collier, 4 August 1918.

⁴⁵¹ Ibid.

⁴⁵² TNA MH 47/52/57: Letter from E. G. Haygarth-Brown, 1 August 1918. TNA MH 47/52/57: Letter from Lt. Col. J. Cornelius, 4 August 1918.

The letters and notes have certain elements in common which suggests that Balls might have advised his witnesses as to what to write. The witnesses were careful to state that they were well acquainted with Balls and had known him since before the War. All six men testified to the sincerity of Balls' convictions as a Buddhist. Mills and Greenly referred to Balls as a pacifist. Mills, Jayatilaka, Greenly and Collier described Balls as not only a Buddhist believer, but also one who practised its principles. That Cornelius was of the opinion that Balls' aversion to war was not cowardice but due to religious scruples provided further substance to his case. There is no evidence that Cornelius and Haygarth Brown were Buddhists; that they were not probably strengthened Balls' case, as Balls' evidence could not be presented as a Buddhist collusion to protect one of their own.

In response to the R.87 form's request that he state his objections, Balls typed an exposition of his Buddhist and pacifist theology for the benefit of the tribunalists who would hear his case. It is an eight-page document that reveals a man whose convictions were well-developed and well-understood. Balls hoped probably that a detailed exposition of his views would be more convincing to those who would judge his case as his knowledge would at least demonstrate his sincerity, if not the rightness of his case. Balls did not claim absolute exemption and had a clear understanding of what he was prepared to do. When asked what form of sacrifice he was prepared to make, Balls responded that he was prepared to work as a merchant sailor, which he anticipated would entail greater sacrifice than the work of a soldier, or to work on a farm as he had good theoretical knowledge of agriculture, having qualified in the examination for Assistant Head of the Small Holdings Branch of the Board of Agriculture and Fisheries.

He also stated he was prepared to do any other work as long as it was not connected with the military and munitions production and did not conflict with the principles of Buddhism. Concerning his beliefs, his typed exposition declared war was immoral, not only because Buddhism had shown it to be the case, but because it was immoral by ethical standards other than those of Buddhism. Those who fought in wars, he warned, would suffer after their death 'long periods' in 'the hell world.'⁴⁵³

On 2 October 1918, Balls appeared in the evening before the Finchley Tribunal. His hearing was suspended to allow the Tribunal to seek advice on his case from the L.G.B. The Clerk of the Tribunal, E. H. Lister, wrote to the L.G.B. that it had transpired during the hearing that Balls had already applied for exemption to the Battersea Tribunal in 1916 and had had his application refused by the Tribunal and the Appeal Tribunal for that area of London. He enclosed Balls' papers and explained that the Tribunal was in doubt as to whether the application ought to be heard or not.⁴⁵⁴ The L.G.B. in turn inquired of the Ministry of National Service and in a letter on behalf of the Director General of Recruiting to the Assistant Secretary of the L.G.B., it was confirmed that Balls' application on the same grounds as his present application had indeed been refused by Battersea and the Appeal Tribunal, and that under the Central Tribunal Decision 91, Balls' application was incompetent and not to be considered by the Finchley Tribunal.⁴⁵⁵ A Mr H. H. Turner of the L.G.B., on the instructions of the President of the L.G.B., sent a copy of this letter they had received from the Director

⁴⁵³ TNA MH 47/52/57: Statement in reply to R87, 8 August 1918.

⁴⁵⁴ TNA MH 47/52/57: Letter from E. H. Lister, Clerk of the Finchley Local Tribunal, 3 October 1918.

⁴⁵⁵ TNA MH 47/52/57: Letter on behalf of the Director General of Recruiting to the Assistant Secretary of the Local Government Board', 26 October 1918.

General of Recruiting to the Clerk of the Finchley Tribunal and Balls' application was not heard and he became subject to conscription.⁴⁵⁶

The narrative does not end here: Balls, as he had done before, took his case, number 1055, to the Middlesex Appeal Tribunal. His Notice of Appeal (R.43) reached Finchley Tribunal on 8 November 1918. His case thus far had taken four months and was now due to reach the Appeal Tribunal where the case would occupy more time. In response to section 2 of R.43, which required an explanation for the appeal, Balls refuted the conclusion that he had deliberately omitted to inform the Ministry of National Service that he had previously applied unsuccessfully to the Battersea Tribunal and the Appeal Tribunal. He described that when he visited the local National Service Representative at his home, he informed him of this fact and that since he had received a certificate of exemption from the Board of Agriculture and Fisheries, he considered that the decision of Battersea and the Appeal Tribunal was superseded by the certificate and therefore *ultra vires*.⁴⁵⁷

Balls' case, fascinating as it is, ends as an anti-climax for the historian, though no doubt with a great deal of relief on the part of Balls. The form R.43 does not contain Middlesex Appeal Tribunal's decision, for the Armistice came three days after the Finchley Tribunal received his Notice of Appeal and therefore his case was put on hold and eventually dropped once the armistice became peace. If Balls felt a sense that his

⁴⁵⁶ TNA MH 47/52/57: Letter from H. H. Turner to E. H. Lister, Clerk to the Finchley Local Urban Tribunal, 28 October 1918.

⁴⁵⁷ TNA MH47/52/57: Notice of Appeal, R43, Case number 1055, 7 November 1918.

careful groundwork had been for nothing, his sense of relief must have been even greater.

The Hearing

The appellant's experience at his hearing was determined decisively by the personalities and attitudes of the tribunalists and the military service representative before whom he appeared. Some measure of the Middlesex Appeal Tribunalists and Military Representatives' personalities can be gleaned from the Tribunal's papers. In the case of Herbert Nield, a much more complete picture can be painted of him because of his contributions to Commons' debates and Select Committees and appearances in newspaper reports. Fortunately, the *Sentinel* newspaper published on July 28 1916 a series of impressions of the Middlesex Appeal Tribunalists and Military Representatives and of the qualitative nature of the hearings.⁴⁵⁸ The 'sketch' was composed by a journalist, E. C. Fawley, whose account is limited in the sense that it is one man's impressions specifically of how conscientious objectors rather than all appellants were treated. However, Fawley had the advantage of having had much experience reporting on official meetings for he had frequently attended County Council meetings for just such a purpose. His aim in writing about the Appeal Tribunal was to provide his readers with an 'impression of the way in which [the Tribunal] did its work.' He believed that the Appeal Tribunal had a reputation for meting out to conscientious objectors treatment that was of a 'rough character, and unsatisfactory.' His account seeks to be fair in that it expresses both praise and criticism and is the consequence of having observed the Tribunal each day since its beginning, which amounted at the time of writing to fifty

⁴⁵⁸ 'OUR COUNTY APPEAL TRIBUNAL', *Sentinel* (28 July 1916), p. 1.

days. On each of these days, Fawley observed all the hearings, which totalled at four-and-a-half hours of daily observation. He rightly believed he had the experience to comment on the workings of the Tribunal with an unparalleled knowledge.

Fawley began his sketch by stating that he did not have ‘much fault to find’ with the Tribunal. He criticised the Tribunal for having no female member, which was true, though that was a criticism that could be levelled at most tribunals across the country.⁴⁵⁹ The Tribunals’ membership also seemed to Fawley to be unrepresentative of the middle class and therefore unable to understand ‘the position’ of that class, which seems an untenable criticism, for the only aristocrat on the panel was Viscount Enfield and though the rest of the Tribunalists were distinguished men, the descriptions of their careers and positions in life suggest that they were middle class, albeit in the upper echelons of that group. Despite these criticisms, Fawley concluded that the public had ‘good reason to be satisfied with its composition.’

Fawley’s miniature portraits of each Tribunalist and both Military Representatives present a mixture of weaknesses and strengths as would be expected in a group of human beings. Some of the criticisms reveal that the Tribunal panel were not constitutionally disposed to a patient consideration of a conscientious objector’s application. Section A perhaps showed less empathy than Section B if the respective members acted in the ways that Fawley described. Regester, the Chairman of Section A, was described as ‘apt to be impatient’ and lay ‘too much weight upon small matters with an inclination to treat errors or incomplete statements of inexperienced people as

⁴⁵⁹ Rae, *Conscience and Politics*, p. 56.

being intended to mislead.’ The idealistic young C.O. stuttering out his case in the face of his ‘elders’ and ‘betters’ might therefore have irritated the suspicious Regester. De Salis, the Deputy Chairman, was capable of being curt and obtuse, for when dealing abruptly with a C.O., he declared the man’s request for ‘fair play’ because he was being tried for his life ‘a silly thing’ to say. Councillor Perkin, the Agricultural Representative, was a farmer himself, and yet Fawley concludes that his sympathies were not so much with other farmers but ‘often with the Army’. Fawley’s impression of Perkin, however, is not supported by the statistics of agricultural cases, for as will be established later in this chapter, appellants appealing for agricultural reasons had the best chance of being exempted. Balkwell Luke is described as having compassion for those appealing on grounds of ‘serious hardship’, though no mention is made of his view of C.Os. Fawley had little to say about Hewlett other than that as a trade unionist he represented the interests of labour. Sharpe was also described briefly for he ‘said but little.’ On another occasion, however, Sharpe revealed his attitude to C.Os. On 28 October 1916, he appeared as a witness at the Middlesex Sessions at the appeal of Herbert Brown, a C.O. from Enfield, against his conviction for disseminating a circular calling on people to protest at military discipline. During the trial, Sharpe summarised for the defence counsel his scepticism of conscientious objector claims:

‘Conscientious objectors’ claims are the most disagreeable tasks I ever had to deal with. After hearing a large number of them I believe the majority are not conscientious objectors, but use this means as a subterfuge to escape military service.’

As justification for his opinion, Montagu Sharpe referred to the poor qualities of argument ‘and the miscellaneous quotations used from Scripture’.⁴⁶⁰

⁴⁶⁰ ‘THE DEATH PENALTY: A CONSCIENTIOUS OBJECTOR IN FRANCE’, *The Observer* (29 October 1916), p. 11.

The most praised member of Section A was the Military Representative, Captain Bax. Though the bullying of conscientious objectors and other types of appellant by military representatives was not ‘uncommon’⁴⁶¹ and was sufficient enough a problem for the Ministry of National Service to issue a warning to representatives not to browbeat C.Os.,⁴⁶² Fawley describes Bax as a man with ‘a great deal of tact’. Of course, Bax was there to protect what the War Office called ‘the national interest’ by securing men for the Army,⁴⁶³ and as an invalided veteran of the Dardanelles campaign and a former member of the 9th Middlesex Territorials, was unlikely to sympathise with the cause of conscience, yet Fawley described him as doing his job ‘without creating bad blood.’ As shall be examined later in this chapter, Bax aggressively pursued appellants for the Army and his handling of medical appeals was far from tactful and caused ill feeling among the Appeal Tribunalists.

The Chairman of Section B, Nield, was described by Fawley rather ominously for conscientious objectors as a ‘John Bull’ type. Yet, Fawley notes Nield’s modest amount of ‘wit’ and a remarkable knowledge of the leading public houses in the localities. What distinguished Nield and the Section he led was the ‘thoroughness’ of the examination of each appellant’s case. Fawley concluded that ‘not even a conscientious objector of the do-nothing-under-any-circumstances type’ could complain that he had not had ‘a fair and patient’ hearing, though Fawley also admits that for all types of appellant the cross-examinations were ‘unpleasant’ because the questions had been ‘keen and cutting’.

⁴⁶¹ Rae, *Conscience and Politics*, p. 102.

⁴⁶² TNA: NATS 1/95: *The Recruiting Code*, Ministry of National Service, January 1918, sec. 187.

⁴⁶³ *Ibid.*, sec. 181.

Burt, the deputy chairman of Section B, was described like Regester as ‘at times irritable’, but ‘sympathetic with the poor’ and generally giving ‘an unbiased decision’. Devonshire was noted for his ‘judicial mind’ and Dobson was described as seeking to prevent businessmen and only children from serving. The last Tribunalist of Section B to feature is Viscount Enfield whose concern was the correct payment of separation allowances. If there were to be a source of bullying, it was to come from the Military Representative of Section B, Captain Carter, who like Bax was an invalided Middlesex officer from the Dardanelles campaign. Fawley describes him as of the ‘bull-dog breed’, tactless and ‘zealous’ about ensuring men for the military, an impression that proved to be accurate.

Fawley’s characterisations are a reminder of the need not to treat tribunalists as a faceless mass with homogenous attitudes, but as individuals whose approach to the appellant in front of them showed a measure of difference. Certain types of appellant would have found a sympathetic ear with at least one of the Appeal Tribunalists. An appellant appealing on the basis of hardship might have found an ally in Balkwell Luke. Only sons and businessmen might have found an ally in Dobson who clearly was fulfilling his role as the commercial representative. Men appealing against leaving their wives destitute would have been reassured by Enfield’s concern. But conscientious objectors faced the most demanding kind of hearing: they either faced Regester’s suspicions and De Salis’ dismissive approach or Nield’s bracing cross-examination. However, all appellants had to overcome the objections of Bax and Carter who were determined the military would have its men.

The Belligerence of Bax and Carter

The source of Bax and Carter's belligerence was the military's realisation that the Military Service Acts, rather than guaranteeing them a regular supply of men, had created a situation in which they had to compete with civilian departments over a limited pool of manpower, but also against the legal demands for exemption on personal grounds.⁴⁶⁴ Therefore, every claim for exemption had to be resisted forcefully.⁴⁶⁵ This resulted in military representatives using 'aggressive, even unscrupulous, tactics'.⁴⁶⁶ Bax and Carter's tactics consisted of pouring doubt on the appellants' claims that conscription would put them at a serious disadvantage and in questioning the Appeal Tribunal's competence.

Bax did not consider the loss of a large business to be a sufficient reason to exempt a man. In the case of a foreman who had oversight of fifteen acres of farmland, Bax urged the Appeal Tribunal not to grant him exemption.⁴⁶⁷ A solicitor argued that the foreman was employed by a man who farmed 1,300 acres. This man had already lost 200 men to the Army, of whom 25 were known to have been killed. The employer's two sons were serving and if he were to lose the foreman, he would have to give up the land he was farming. The Appeal Tribunal concluded this was unacceptable and against Bax's wishes, granted the foreman conditional exemption. In another case, Carter suggested that the appellant, if he were exempted, ought to be compelled to join the Volunteer Training Corps, despite the fact that he was already working daily from 5 am until 10 pm. His suggestion earned the rebuke of Nield who declared, "We must be human", a

⁴⁶⁴ Rae, *Conscience and Politics*, p. 66.

⁴⁶⁵ Ibid.

⁴⁶⁶ Ibid., p. 67.

⁴⁶⁷ 'LOCAL CASES AT THE COUNTY TRIBUNAL', *Middlesex Chronicle* (4 November 1916), p. 2.

conclusion the journalist reporting the case recommended that Carter had inscribed inside his hat for future reference.⁴⁶⁸

A small portion of Carter's correspondence consisting of twenty one letters and accompanying documents sent to or received by him during 1917 and 1918 have survived which illuminate further the aggressive tactics used by him. To make an appeal, Carter was required to provide the Central Tribunal with the case papers to his contact, Captain James, and explain why he was appealing in a document called 'Further Representations'. This consisted in writing a paragraph in which the military service representative commented on why he thought the appeal tribunal's decision was wrong and what decision he wanted in the case. Carter, however, was not content to write a mere paragraph and sent letters with the case papers to the Central Tribunal explaining in detail the reasons why he thought the man in question did not deserve his exemption.⁴⁶⁹

The letters demonstrate how determined Carter was to argue for every man. In July 1917, Carter contested the appeal of T. H. Bates. He began his representation to the Central Tribunal with an ominous reminder of the Army's urgent need for men, and his belief that the Army ought to remain on the offensive as the Germans were at breaking point. Bates had sought exemption because he was concerned that if he left his wife, who was mentally ill, she would suffer a mental collapse and would not be able to manage their shop. Carter's response was to downplay the severity of Bates' situation.

⁴⁶⁸ 'THE HERALD SEARCHLIGHT', *Daily Herald* (12 August 1916), p.7.

⁴⁶⁹ TNA MH 47/119/73: Letter to Captain James, Military Representative to the Central Tribunal from Lieutenant Carter, 13 July 1917. At the time he received the letter, Carter still held the rank of lieutenant. He was later promoted to Captain.

He admitted that Bates' wife was suffering 'mental trouble', but the trouble was not harmful and that she could be cared for by her mother who lived nearby who along with an employed sixteen year old boy could manage the shop and the rounds.⁴⁷⁰

On 11 July, Carter wrote and sent his 'Further Representations' regarding H. W. Hunt which demonstrated his second tactic: that of impugning the Appeal Tribunal's competence. Carter was of the opinion that the local tribunal had been correct in refusing Hunt exemption because by virtue of it being local to the appellant, knew well the 'local conditions and requirements' of the region in terms of manpower and was nevertheless not prepared to grant exemption. Carter's implication was that the Middlesex Appeal Tribunal, which was a central institution, could not have known local conditions as well.⁴⁷¹

C.Os.' Experiences at Their Hearings

Two sources illuminate C.Os.' discontent with the Middlesex Appeal Tribunal: Philip Snowden's censure of the Middlesex tribunals in the House of Commons and the Quaker journal *The Friend*. Snowden's role in the general criticism of the tribunals has already been discussed in chapter one. *The Friend* narrated and commented on hearings and their outcomes nationally which involved Quakers to 'indicate the varying attitude of the tribunals and of the military authorities'. The editorial aim was to present 'representative cases' and to give 'equal prominence' to cases where the appellant was

⁴⁷⁰ TNA MH 47/119/73: Further Representations by the Appeal Military Representative re. T. H. Bates, July 12 1917.

⁴⁷¹ TNA MH 47/119/73: Further Representations by Appeal Military Representative, Appeal re. H. W. Hunt, 11 July 1917.

treated sympathetically and where they were not.⁴⁷² The editorial policy therefore aimed for impartiality and accuracy.

One complaint was the condemnatory tone with which tribunalists and military representatives in Middlesex spoke to C.Os. Snowden gave the example in his Commons' speech of 22 March 1916 of the Chiswick Local Tribunal which according to Snowden had permitted the Military Representative, against the 'express request' of a C.O. who was absent from the room at the time, to address the tribunal and tell them that the man's application had been made on 'shirking grounds'. A member of the Tribunal, whom Snowden names as Proctor, asked the appellant 'whether he did not feel ashamed of himself.'⁴⁷³ One absolutist who came before the Middlesex Appeal Tribunal experienced the Tribunalists' acerbity. George Sutherland, who was granted exemption conditional on doing work of national importance by the Appeal Tribunal, asked at his hearing if conditional exemption was the most that could be given. The Chairman, who is unnamed in the report, replied that it was. When Sutherland informed him that the tribunal in Colchester was granting absolute exemption, the Chairman replied sarcastically: 'Then all I can say is that I regret the law is so badly applied at Colchester.'⁴⁷⁴

Feeling confused and intimidated by the line of questioning pursued by tribunalists was another type of complaint. The cause of this was presented by the No-Conscription Fellowship which discovered through a survey of 3,701 appellants that 2,870 had no

⁴⁷² *The Friend* (10 March 1916), p. 138.

⁴⁷³ *Ibid.*, p. 13.

⁴⁷⁴ *The Friend* (7 April 1916), p. 233.

education beyond elementary school.⁴⁷⁵ *The Friend* presents one example of this in relation to Middlesex: the case of Ernest H. Goodall, a Quaker clerk, who had been refused absolute exemption by the Chiswick tribunal. *The Friend* reported that Goodall was questioned by the Chiswick Tribunalists about the Old Testament and challenged to opine on whether God was omnipresent. Answers to such questions were beyond Goodall's education and so the report concluded that the Tribunalists were deliberately confusing Goodall in order to present him as ignorant of his faith and therefore insincere.⁴⁷⁶

If some appellants in the Middlesex system were subjected to intimidating questioning, others experienced frustration at not being permitted to present their evidence or make a full statement of their case for absolute exemption. According to Snowden, one hearing at the Enfield Local Tribunal lasted a mere three minutes and the application was refused without even being heard. When the applicant asked the Chairman if he did not believe he had a genuine conscientious objection, the Chairman replied, 'I have no reason to disbelieve you, but I think you are able to go as a soldier.'⁴⁷⁷ When Alexander Sim appeared before the Appeal Tribunal on 3 July 1916, he complained that the Ealing Local Tribunal had ignored his evidence.⁴⁷⁸ According to another report, Albert Westwood requested exemption at an unnamed local tribunal from military service in order to be allowed to continue his work with the Quakers' Hoxton Hall in adult education and the alleviation of poverty. The local tribunal referred him to the Friends Ambulance Unit (henceforth known as F.A.U.), but he appealed against this to the

⁴⁷⁵ Moorhead, *Troublesome People*, p. 34.

⁴⁷⁶ *The Friend* (17 March 1916), p. 159.

⁴⁷⁷ Snowden, *British Prussianism*, p. 4.

⁴⁷⁸ *The Friend* (18 August 1916), page 651.

Appeal Tribunal because the F.A.U. could not allow him to continue work at Hoxton Hall. According to the account of his case, the Middlesex Appeal Tribunal did not permit him to give a statement of his position and refused to allow him to discuss the position with the Pelham Committee.⁴⁷⁹ The problem of ignoring evidence was also alleged regarding the Middlesex Appeal Tribunal's treatment of Cornelius Barritt's appeal. His case had originally been heard by the Harrow Tribunal and when absolute exemption had not been granted, Barritt took his case to the Appeal Tribunal. According to the case report, very little consideration was given to his case, for when he had said merely a few words the Chairman silenced him. The only question asked of him was whether he was a Quaker-an unnecessary question as the Military Representative had already confirmed that he was.⁴⁸⁰ The case of Isaac Goss reveals further the problem of perfunctory hearings, though in Goss' case, it was the local tribunal that had superficially considered his application, whereas the Appeal Tribunal examined it more conscientiously. Goss was an absolutist who had appealed against the Hornsey Local Tribunal's decision to grant him exemption conditional on performing work of national importance. Goss complained at his appeal hearing that the Hornsey Tribunal had not made a thorough examination of his case, but had come to its decision on a discussion of his Quaker membership alone. Nield's concern was to ascertain whether the local hearing had been a legal one. Goss was permitted to present his shorthand transcript of the local tribunal proceedings and Nield requested a report from Hornsey on its

⁴⁷⁹ *The Friend* (8 December 1916), pp. 964-965.

⁴⁸⁰ *The Friend* (7 April 1916), p. 233.

handling of the case as he was uncertain as to whether he could refer the case back to Hornsley.⁴⁸¹

Another cause of Middlesex's C.Os.' disquietude was what seemed to them to be unreasonable and unexplained refusals of appeal. Snowden argued that the Enfield Local Tribunal was guilty of this in the case of Alfred Davies. According to Snowden, Davies was denied the right to appeal because of the overbearing influence of the Military Representative who after the hearing stated that Davies ought to be given non-combatant service because the army wanted "to get them altogether."⁴⁸² Snowden cited another case that was heard on March 27 1916. The representing solicitor claimed absolute exemption as the Military Service Act provided, but the Military Representative intervened and suggested that the case ought to be stood over pending the decision of the Central Tribunal in a similar case. According to Snowden, the dialogue between Chairman and counsel continued as follows with the Chairman refusing to give an explanation for his decision:

'The Chairman said: The appeal is dismissed.

Counsel: With great respect I press the desirability of postponing this case until the point is decided by the Central Tribunal.

Chairman: Next case.

Counsel: I apply for leave to appeal as provided by the Regulations.

Chairman: Refused.

Counsel: On what grounds?

Chairman: Next case.'⁴⁸³

Though the number of cases presented in *The Friend* regarding the procedures and decisions of the Middlesex tribunals and the Appeal Tribunal are for the most part

⁴⁸¹ *The Friend* (10 November 1916), p. 887.

⁴⁸² Snowden, *British Prussianism*, p. 4.

⁴⁸³ *Ibid.*, pp. 17, 18.

critical of their policies and attitudes, when Quaker appellants received the verdicts they wanted or were treated courteously, even though the judgement went against them, *The Friend* was prepared to acknowledge this. Charles J. Baker and Paul W. Baker were reported as receiving the conditional exemption they wanted from the Acton Local Tribunal to work for the F.A.U.⁴⁸⁴ H. Lynn Harris appealed against the Hendon Local Tribunal's decision to award exemption condition on service of national importance in order to gain absolute exemption. At his hearing before the Appeal Tribunal, evidence for Harris' sincerity was heard: he was allowed to read a letter attesting to his pacifism written by the Headmaster of Leighton Park and to quote from the *Book of Discipline*. The Chairman concluded he was sincere and decided he needed to hear no more evidence. The Appeal Tribunal dismissed Lynn Harris' appeal; nevertheless, the hearing was approved by the report as 'very courteous'.⁴⁸⁵ George P. Horner appeared before the Middlesex Appeal Tribunal on 27 March 1918. By his own account, he was awarded non-combatant service, but this exemption was 'subsequently withdrawn owing to it not meeting the full circumstances' of his objection. When Horner wrote to request 'the green form' on which he would make his appeal to the Central Tribunal, he noted that 'the sincerity & genuineness' of his appeal had been admitted by the Tribunal's granting of non-combatant service in the first place.⁴⁸⁶

The Appeal Hearing's Decisions

Though the hearing process itself was a significant source of experiences for the appellant, the decision of the Tribunal was the decisive element in determining how the

⁴⁸⁴ *The Friend* (7 April 1916), p. 233.

⁴⁸⁵ *Ibid.*, (14 April 1916), p. 252.

⁴⁸⁶ TNA MH 47/121/3: Letter from George P. Horner to the Clerk of the Appeal Tribunal for the County of Middlesex, 28 March 1916.

appellant felt about how he had been treated and determined very much the sort of life he would live for the rest of the War, and perhaps whether he was going to survive the War. An appellant might not mind too much a robust interrogation, and might even excuse rudeness, if at the end of his appeal he received the exemption type he wanted. Though data for all the reasons why men chose to seek exemption in Middlesex and the consequent local tribunal decisions are certainly not available, we can assume with some certainty that those who chose not to appeal were satisfied with the judgement rendered by their local tribunal, or at least found the judgement tolerable, for all had the right to appeal. What proportion of men appealed is not known either, therefore it is impossible to formulate the level of satisfaction with the local tribunals among Middlesex men. It is possible, however, on the statistics available for the Appeal Tribunal's decisions to gauge to some extent the level of satisfaction among those who appealed and to identify which type of appellant had the best chance of emerging from an appeal hearing with some kind of exemption.

Each of the Appeal Tribunal's two courts recorded separately their case decisions in the Weekly Statistics and Return of Cases.⁴⁸⁷ Though the statistics were collected weekly, they were summarised on a monthly basis according to the number of different types of appeal cases and their outcomes. The Return Sheet required the court to keep a precise record of the specific judgement made in response to the range of objections to military service permitted by statute. Exemptions awarded on appeal were recorded as to whether they were absolute, temporary or conditional. Appeals for exemption were classified according to which of the following bases on which they were made:

⁴⁸⁷ MH 47/143: Weekly Statistics and Returns of Cases.

employment in a certified occupation; employment in a line of work or activity deemed to be of national interest; financial hardship; business commitments; domestic situations; and ill health or infirmity. A further distinction in the monthly return was made according to how long a temporary exemption was granted. The return allowed the clerk to specify whether a temporary exemption was given for less than two months; between two and six months; and between six and twelve months. Appeals dismissed were recorded as to the ground on which the case was made as listed above. Withdrawn appeals were recorded as to whether they were withdrawn before or drawing the hearing. A separate section was provided specifically for C.Os. The monthly return required the clerk to record whether the C.O.'s appeal received absolute or temporary exemption conditional on doing work of national importance, or absolute or temporary exemption from combatant service only. No provision on the form was made for permitting the conscientious objector to be absolutely or temporarily exempt from any form of contribution to the war effort, whether in a uniformed, but non-combatant role, or within work of national importance. The form's structure, created by the Middlesex Appeal Tribunal, therefore reflected the Tribunal's attitude to the C.O. and its refusal to countenance that a man of conscience would be permitted to do nothing for his country in its time of great need. Two further sections of the form required the Tribunal to record its decisions in the case of appeals brought either by appellants or by the Military Representative regarding certificates exemptions issued by local tribunals. Again, a distinction was made between appeals over certificates awarded to conscientious objectors and objectors on non-conscience grounds. The two verdicts possible in the case of certificates already awarded were their withdrawal or their variation. The final

section of the form recorded the number of times the Tribunal decided it had no jurisdiction in an appeal.

The total number of men who appealed to the Middlesex Appeal Tribunal during the conscription period was 8791.⁴⁸⁸ A summary of those statistics in terms of the grounds on which those men appealed and what decisions the Appeal Tribunal came to was prepared on 8 November 1918.⁴⁸⁹ It is important to emphasise that the figure of 8791 refers to the number of men making an appeal rather than the number of cases that were heard by the Appeal Tribunal.⁴⁹⁰ The number of appeals heard was a different figure because appeals were re-heard and men were given permission to make further applications when their current exemption ran out. The total number of appeals received taking into account re-hearings and appeals for the continuation of exemptions was 11307 with 5278 coming from attested men and 6029 coming from men covered by the Military Service Acts.⁴⁹¹ This meant that 2,516 cases heard by the Appeal Tribunal were re-hearings or applications for the extension of exemptions.

As noted in chapter one, the Appeal Tribunal was reluctant to change the local tribunals' decisions for the dismissal of appeal cases was the single most frequent decision given. The conservatism of the Appeal Tribunal was as much a desire to maintain the authority and status of the local tribunals as it was an expression of the Appeal Tribunal's assessment of the cases presented to it. 4012 cases were dismissed

⁴⁸⁸ TNA MH 47/143/2: Weekly Statistics and Returns of Cases.

⁴⁸⁹ TNA MH 47/143/2: Statistics of Cases.

⁴⁹⁰ Ibid.

⁴⁹¹ Ibid.

which constituted nearly half or 45.63% of men cases.⁴⁹² When compared to the known statistics of other tribunals, the Appeal Tribunal approach was moderate. Most severe was the Birmingham Appeal Tribunal that dismissed 67% of all appeal cases. The Bristol City Local Tribunal was of a similar mind to Middlesex, for it dismissed 41.5% of cases. The most generous was the Birmingham Local City Tribunal which heard 90,721 cases and dismissed just over 38% of them.⁴⁹³

The dismissal of nearly half of appeal cases was a pattern that was established early in the life of the Appeal Tribunal. According to the Military Representatives' Report for the week ending Wednesday 19 March 1916, there had been 285 appeals to date, and 137, or 48% of them, had been dismissed and 68 exemptions, or 23.8%, had been granted. 80 cases were pending.⁴⁹⁴

The type of case that was most likely to be dismissed was that of the C.O. The Middlesex Appeal Tribunal received 577 appeals on the grounds of conscience which constituted only 6.56% of all appeals received.⁴⁹⁵ The number of C.Os. appealing was a small proportion of all the men appealing to the Appeal Tribunal which reflected the national picture for only around 16,500 men in total sought exemption as C.Os. which represented a mere 0.33% of all men recruited voluntarily or conscripted.⁴⁹⁶ Most C.Os. received nothing from the Appeal Tribunal for it dismissed 70% of conscience cases.⁴⁹⁷ To be more precise, 406 of the 566 cases of conscience were dismissed, which

⁴⁹² TNA: MH 47/143/2/10: Statistics of Cases.

⁴⁹³ McDermott, *British Military Service Tribunals*, pp. 219-20.

⁴⁹⁴ TNA: MH 47/143/1/1: Weekly Statistics and Returns of Cases.

⁴⁹⁵ TNA: MH 47/143/2/10: Statistics of Cases.

⁴⁹⁶ Rae, *Conscience and Politics*, p. 71.

⁴⁹⁷ *Ibid.*, p. 129.

constituted 70.36% of such cases.⁴⁹⁸ A C.O. therefore had a 24.73% greater chance of having his case dismissed than a man seeking exemption on other grounds. In comparison to the Northampton Appeal Tribunal, which never dismissed a conscience case outright,⁴⁹⁹ the Middlesex experience was harsh, but the Middlesex Appeal Tribunal's readiness to dismiss conscience cases, or to make the minimum concession of non-combatant exemption, was not unusual. The Birmingham Appeals Tribunal demonstrated a similar austerity. It heard 352 cases of conscience and confirmed 116 dismissals by local tribunals and 142 non-combatant certificates. It slightly varied 34 exemptions offered by local tribunals and in only 60 made any significant variations.⁵⁰⁰

As established in chapter two, the Middlesex Appeal Tribunal refused to exempt C.Os. absolutely. In this, the Middlesex Appeal Tribunal was no different to the great majority of tribunals throughout Britain. Even the Northampton Borough Local Tribunal, renowned for its 'relatively enlightened' decrees in cases of conscience, refused to grant absolute exemptions to 'conchies'.⁵⁰¹ However, the Appeal Tribunal appears to have been reluctant to grant absolute exemption for any appellant for in non-conscience appeals only 26 men were granted absolute exemption: 2 for reasons of national interest and 24 for reasons of ill-health. This amounted to 0.29% of non-conscience cases resulting in absolute exemption.⁵⁰² In this matter there was for once little difference between conscience and non-conscience cases.

⁴⁹⁸ TNA: MH 47/143/2: Statistics of Cases.

⁴⁹⁹ McDermott, *British Military Service Tribunals*, p. 56.

⁵⁰⁰ Ibid.

⁵⁰¹ Ibid.

⁵⁰² TNA MH 47/143/2: Statistics of Cases.

When the Appeal Tribunal was prepared to grant an exemption on non-conscience grounds, its criterion of judgement was what constituted ‘national interests’ not ‘the personal interests of the man.’ It is important to emphasise that national interests did not mean military interests, if by military interests we mean the Army’s ability to acquire men not yet in uniform. As an example of what it meant, the Appeal Tribunal’s memorandum ‘Guiding Principles’ described the hypothetical case of a student who wishes to have his call-up delayed so that he can finish his studies. It was the task of the Appeal Tribunal to decide if by continuing his studies, it was in national interests for him to do so.⁵⁰³ The Appeal Tribunal, therefore, measured its judgment against a principle that represented a third way between personal and military needs. However, as we have seen with the absolutists, it was a principle that did not permit a man to do nothing to help the war effort. It was a principle that could not accommodate the most extreme form of conscience.

Non-conscience appeals most likely resulted in the granting of temporary exemptions which provided appellants with the chance to order their affairs in order to prepare for their day of conscription. In this the Appeal Tribunal was typical of most tribunals across Britain.⁵⁰⁴ 2,813 cases were temporarily exempted, which constituted 31.99% of all decisions including cases dismissed.⁵⁰⁵ Most appellants exempted temporarily were exempted for three to four months with one month’s temporary exemption the smallest length of time that could be granted and twelve months the most.⁵⁰⁶ Here we see the Appeal Tribunal being neither parsimonious nor too generous, but attempting to walk

⁵⁰³ TNA MH 47/144/3: Appeal Tribunal-Guiding Principles, 16 March 1916.

⁵⁰⁴ McDermott, *British Military Service Tribunals*, p. 220.

⁵⁰⁵ TNA MH 47/143/2: Statistics of Cases.

⁵⁰⁶ TNA MY 47/143/4: Statistical Returns to Local Government Board.

the third way of national interest between personal and military needs. Conditional exemption without a time limit was the next most frequent judgement given, but very few appeals were judged to be deserving of conditional exemption. A total of 581 appeals were conditionally exempted which was 6.6% of all cases. The most common cause for conditional exemption was national interest. 401 were exempted for this. 94 were exempted conditionally for they were in certified occupations. 75 were conditionally exempted because of serious hardship. 10 were exempted for ill health conditionally.⁵⁰⁷ 782 cases were ‘withdrawn, outstanding, cancelled, etc.’ These cases constituted 8.89% of all appeals, or nearly 1 in 10 cases.⁵⁰⁸ The statistical data provides no reasons why appellants might withdraw their appeals. Some men may have had a change of mind and decided that their country really did need them after all. Most probably came to the conclusion that they were not going to be treated more generously by the Appeal Tribunal and that it was better to keep the original exemption awarded to them. Those military representatives and national service representatives who chose to withdraw their appeals may have followed a similar line of reasoning: that in certain cases the Appeal Tribunal was likely to affirm the original decision.

The most common verdict in cases of conscience where the Appeal Tribunal was prepared to award exemption to C.Os. was the least liberal that it could award: exemption from combatant service only. Of the 577 conscience cases the Appeal Tribunal examined, 106 appellants, or 18.37%, were exempted from combatant service only.⁵⁰⁹ Work of national importance was the second most common verdict with 59

⁵⁰⁷ Ibid.

⁵⁰⁸ TNA MH 47/143/2/10: Statistics of Cases.

⁵⁰⁹ Ibid.

appellants, or 10.22%, being sent to farms and factories.⁵¹⁰ 6 conscientious objectors, or 1.03%, were temporarily exempted from conscription.⁵¹¹ The Appeal Tribunal, therefore, remained faithful to its initial guiding principle of awarding exemption only from combatant service to C.Os. It softened its principle, however, of only allowing C.Os. to do work of national importance if they were already engaged in it by permitting C.Os. to find work of national importance. The Appeal Tribunal nevertheless took a tough line with C.Os. for it was prepared to exempt in total only 28.5% of those C.Os. whose cases it considered from fighting. Its view therefore was that most C.O. appeals were unjustified and those that were judged legitimate were not permitted to avoid some form of wartime duty, whether as a non-combatant or as a worker in an essential industry. The moral axiom of collective responsibility and contribution in Britain's time of great need overrode in the minds of the Appeal Tribunal absolute pacifist conviction and attempts by C.Os. to define on their own terms their contribution.

The Middlesex Appeal Tribunal was much more generous in its attitude to appeals made by those working in agriculture. Only 21.9% of the British population lived in rural districts and since the depression of the 1870s, farming had become 'a rather neglected craft'. The consequence of a growing population that made its income less and less from growing crops and raising livestock was that at the outbreak of the War, Britain depended on imports for four fifths of its wheat consumption and 40% of its meat.⁵¹² The problem facing the British Government was to balance the manpower

⁵¹⁰ Ibid.

⁵¹¹ Ibid.

⁵¹² Marwick. *The Deluge*, p. 58.

needs of the Army with those of the farmers, both of whom needed able bodied males in their employment. The autumn of 1916 and the summer of 1917 saw ‘freezes’ on the conscription of land labourers and farmers’ sons as the Government concluded that agriculture had lost enough men to Flanders and that production would collapse if any more men were forced to go. At other times, farmers and labourers were obliged to make the same case as anyone else, though McDermott is of the opinion that the importance of food production weighted decisions in the favour of the appellants, as it clearly did with the Middlesex Appeal Tribunal.⁵¹³

The Appeal Tribunal’s statistics for agricultural cases are incomplete as data only exists as far as October 1916. From this limited sample of cases, it is possible to see that for the first year of conscription at least, those appealing on agricultural grounds had the greatest chance of being exempted on appeal. From 2 March 1916 until 31 October 1916, 158 agricultural appeals were made. 92, or 58.22%, were granted exemption, though what kind of exemption the data recorded does not specify. 48 or 30.37% were refused, 18, or 11.39% withdrew their appeals.⁵¹⁴

The greater readiness of the Middlesex Appeal Tribunal to grant permanent and temporary exemptions on appeal to appellants from agriculture had more to do with the general principle of the importance of food production wherever it took place rather than the importance of agriculture to Middlesex, since agriculture comprised a small part of the local economy. It was also to some extent the result of Government policy. To ensure that 1916’s harvest was effectively collected, the L.G.B. expressed the wish

⁵¹³ McDermott, ‘The Work of the Military Service Tribunals’, pp. 107-8.

⁵¹⁴ TNA: MH 47/143/02: Number of Agricultural Cases Dealt with up to October 31 1916.

that if the agricultural and military representatives were in accord on the matter, agricultural appeal cases ought to be postponed until after the harvest had been gathered in. It was nevertheless desirable that once the harvesting had been completed that the adjourned cases be heard as soon as possible.⁵¹⁵

As the number of appeal cases emanating from agriculture was small, Arthur Perkins, the Representative of the Middlesex War Agricultural Committee only attended as and when agricultural cases arose. Both the Middlesex War Agricultural Committee⁵¹⁶ and the Appeal Tribunal Joint Secretaries⁵¹⁷ would inform him by letter when his services were needed. The Joint Secretaries would specify to Perkins the time and date of the hearing and invite him to it. The information provided by the committee and the Tribunal to Perkins also consisted of the appellants' names, and if the appellant was an employer, the name of both employer and employee. Brief details were given about the employee's role and the size and nature of the farm on which he was employed. In the case of the self-employed farmer and smallholder, the same details were provided. The committee's letter furnished additionally the farm's address. Perkins therefore had an introduction to the cases he was to hear, but his decision, of course, was expected only after he had had access to the case papers and had heard the appellant or employer during the hearing. Thus, the first contact made by the Appeal Tribunal to Perkin came on 8 July 1916, when Perkin was informed of a list of seven agricultural cases that

⁵¹⁵ TNA: MH 47/121/7: Letter from I. Gibbon on behalf of the Assistant Secretary to the Local Government Board to the Secretary of the Appeal Tribunal, 25 July 1916.

⁵¹⁶ See e.g., TNA: MH 47/121/8: Letter from the Honorary Secretaries to the Middlesex War Agricultural Committee to A. Wm. Perkins, agricultural representative to the Middlesex Appeal Tribunal, 3 August 1916.

⁵¹⁷ See e.g., TNA MH 47/121/9: Letter from the Joint Secretaries to A. Wm. Perkins, 22 September 1916.

would be heard on 12 July 1916 at 2:30 pm at the Guildhall, Westminster.⁵¹⁸ It appears that these hearings were postponed, for on 14 July 1916, Perkin was informed by the Joint Secretaries that the same list would be heard on 19 July.⁵¹⁹ The list of appeals heard on 19 July contains five appeals for a range of skilled agricultural workers and those with a foreman role made by employers who considered their services indispensable. Of the two men appealing on their own behalf, one was a smallholder called A. J. Budd and the other was a dairy farmer and cow keeper called A. J. Phillips.

Appeals to the Central Tribunal

The Appeal Tribunal permitted fifty appeals by appellants to go forward to the Central Tribunal, none of which were C.O. appeals.⁵²⁰ Thirteen appeals against the Appeal Tribunal were initiated by the Military Representatives, for the total figure of 63 cases emanating from Middlesex is given in the Central Tribunal's Supplementary Report.⁵²¹ The small number seems more parsimonious when compared to the 266 cases allowed to go to the Central Tribunal by the Gloucester Appeal Tribunal, though generous when compared to the Appeal Tribunal for Nottinghamshire that permitted only two appeals to go before the Central Tribunal.⁵²² The average number of appeals permitted to go forward to the Central Tribunal by the 46 English appeal tribunals was 57, which suggests that the Middlesex Appeal Tribunal was near middle-of-the-road in its attitude.⁵²³ The Middlesex Appeal Tribunal's reluctance to allow appeals to go to the

⁵¹⁸ TNA MH 47/121/7: Letter from the Joint Secretaries to the Middlesex Appeal Tribunal to A. W. Perkin, 8 July 1916.

⁵¹⁹ TNA MH 47/121/7: Letter from the Joint Secretaries to A. W. Perkin, 14 July 1916.

⁵²⁰ TNA MH 47/143/2/10: Statistics of Cases.

⁵²¹ TNA MH 47/3/1: Report of the Central Tribunal, 1919, p. 16. The document does not give the day or month of publication, but only the year.

⁵²² Rae, *Conscience and Politics*, p. 97.

⁵²³ TNA MH 47/3/1: Report of the Central Tribunal, 1919, pp. 15-16.

Central Tribunal perhaps reflected its desire not to permit appellants to delay any further their call-up or their assumption of work of national importance. As likely a reason was the Appeal Tribunal's confidence that it had rendered to appellants what they deserved.

After the Hearing

Earlier in this chapter it was observed how devastating the experience of prison life was for absolutists who refused to repent of their beliefs. The best documented case of what happened to a Middlesex absolutist after his appeal had been denied is that of Cornelius Barritt, whose case was faithfully reported in *The Friend*, and whose experience of a downward spiral of intensifying suffering was typical of the fate of so many recalcitrant absolutists. When called up, Barritt refused to obey and when conscripted refused his summons. He was arrested and tried before the Wealdstone Sessions on 18 April 1916. During the trial, he declared that his appeal at the Middlesex Appeal Tribunal 'was a mere travesty'.⁵²⁴ He was fined forty shillings and handed over to the Army at Mill Hill.⁵²⁵ The story continued with *The Friend* reporting that Barritt had been sent to France.⁵²⁶ His refusal to obey orders resulted in being held at the Field Punishment Barracks at Boulogne for twenty-eight days.⁵²⁷ The military eventually decided to wash its hands of Barritt for it was reported he had been transferred to the civil prison at Winchester⁵²⁸, then at Wormwood Scrubbs⁵²⁹ and then at Winchester again.⁵³⁰ The last

⁵²⁴ *The Friend* (28 April 1916), p. 298.

⁵²⁵ *Ibid.*

⁵²⁶ *Ibid.*, (2 June 1916), p. 422.

⁵²⁷ *Ibid.*, (9 June 1916), p. 450.

⁵²⁸ *Ibid.*, (14 July 1916), p. 547.

⁵²⁹ *Ibid.*, (25 August 1916), p. 674.

⁵³⁰ *Ibid.*, (1 September 1916), p. 690.

one hears of Barritt in the pages of *The Friend* was that he was in Aberdeen having accepted work of national importance under the Pelham Scheme.⁵³¹

Whilst the absolutist suffered extremes, life was made uncomfortable for C.Os. generally by Middlesex's county government, a discomfort that was celebrated by the satirical *John Bull* and the provincial press. The *Middlesex Chronicle* briefly reported on 6 May 1916 that the County Council had decided to accept the motion of Councillor H. Heldmann to inform the Committee of National Importance that they would not employ conscientious objectors.⁵³² The *Chronicle* returned to discussing the decision a week later when it noted that the 'satirical contemporary', *John Bull*, had applauded the decision. The *Chronicle* quoted with gleeful approval the following from *John Bull*:

'No C.Os. for the M.C.C. —The Middlesex County Council have done a sweet and gracious thing. Asked by the Committee on Work of National Importance (' which is responsible for finding useful employment for conscientious objectors to military service ') whether they were willing to appoint C.Os. to any vacancies that might have to be filled, the Council immediately passed a resolution that conscientious objectors should not be employed in any capacity under the Council. It is devoutly to be hoped that all other public bodies throughout the kingdom will follow this excellent and patriotic example. Let the C.Os. live by taking in each other's washing, not by battening on public funds.'⁵³³

Alternativists who had accepted work of national importance caused offence simply because they had a conscientious objection to the War. According to the *Hendon and Finchley Times*, the Finchley Local Tribunal had in some cases granted temporary exemption to conscientious objectors on condition that they found work in the Voluntary Aid Detachment (henceforth known as the V.A.D.) hospitals. However, some difficulty had been caused by the orderlies refusing to work with men who had a

⁵³¹ Ibid., (8 September 1916), p. 713.

⁵³² 'County Council News', *Middlesex Chronicle* (6 May 1916), p. 8

⁵³³ 'Brentford: Rare Praise', *Middlesex Chronicle* (13 May 1916), p. 2

conscientious objection to military service. One tribunal member expressed his concern that the soldiers being treated in the hospital might ‘rise up in arms’ against the objectors. According to the report, it was decided in future to insist upon C.Os. finding other work of national importance.⁵³⁴

The Conditions of Conditional Exemption

The Appeal Tribunal minutes name the sort of work of national importance for which men were conditionally exempted to do.⁵³⁵ Most frequently men were exempted conditionally to work in a range of manufacturing interests which is not surprising in the light of the urbanised nature of Middlesex and the proximity of London. After manufacturing, men were most frequently exempted to work on farms or in occupations that were related to the production and supply of food, often in other parts of Britain as Middlesex’s agricultural sector was small. Exemption to work in munitions factories was the third most common type of decision. It was also a common practice to require exempted men on appeal to combine their customary employment with hours spent working as Special Constables or drilling with the Volunteer Training Corps (henceforth known as the V.T.C), the latter being seen as good preparation for a man to have in anticipation of being eventually called to the Colours once his temporary exemption had expired.⁵³⁶ These men therefore paid the price of their exemption with very long working weeks. Men were able to gain some control over how they served by expressing a preference for the Special Constabulary rather than the V.T.C. and *vice*

⁵³⁴ ‘CONSCIENTIOUS OBJECTORS HOSPITALS’, *Finchley and Hendon Times* (11 August 1916), p. 1

⁵³⁵ TNA MH 47/5.

⁵³⁶ McDermott, *British Military Service Tribunals*, p. 199.

versa, and this preference was permitted by the Appeal Tribunal, though not in every case.⁵³⁷

Men who were temporarily exempted to continue in their usual places of work had the psychological advantage of remaining in a familiar environment. They faced the pressures of uncertainty, however, for their exemption was temporary, and though they could apply for an extension of their exemption, there was no guarantee that the Appeal Tribunal would assent to that. Occasionally appellants were exempted on appeal to continue in work that was not physically demanding. The Second Section granted R. W. Tempest three months' exemption conditional upon his doing office work of national importance with the Northern Assurance Company in the City of London.⁵³⁸ Though required to undertake new work, F. R. Belcher was exempted for six months conditional upon his undertaking work as an intermediate stocktaker with the Navy and Army Canteens Board in Knightsbridge.⁵³⁹ Men who were exempted permanently to continue working, whether in their present occupations or in new work, probably had the best of worlds, though this type of exemption came with conditions also. The Second Section approved A. S. Wright working for the London based company of Messrs Watts as long as he worked exclusively on government work.⁵⁴⁰ In the case of men who were permanently exempted on condition that they performed war work, the Appeal Tribunal appears to have been more prescriptive in terms of the number of hours and days worked and to have demanded that men combined war work with their present occupations. Such requirements were the consequence of the need for all exempted men

⁵³⁷ TNA MH 47/5/7: Minute Book 7, 1 August 1918.

⁵³⁸ TNA MH 47/5/7: Minute Book 7, 31 July 1918.

⁵³⁹ TNA MH 47/5/7: Minute Book 7, 1 August 1918.

⁵⁴⁰ TNA MH 47/5/6: Minute Book 6, 24 April 1918.

to make a sacrifice in the light of the enormous sacrifices being made by those at the front. Men exempted in this way would have had to endure exhausting working weeks. J. B. Tucker, for example, was instructed to work for 12 hours a week at the Ealing War Hospital Workshops over and above his normal employment.⁵⁴¹ F. H. Leal, for example, who was given a permanent conditional exemption, was instructed to ensure he worked thirty hours over three days a week at the Vulcan Electric and Mechanical Company in Ponders End.⁵⁴² Sometimes men were required to perform two forms of work in order to fulfil a minimum number of hours. Thus, R. Sergeant was permitted by the Second Section to count work with the V.A.D. and the Special Constabulary amounting to 20 hours a week as work of national importance.⁵⁴³

Appellants were required to demonstrate personal sacrifice in other ways. One way was to leave a place of work which was not physically demanding and well-paid and take on manual work. One of the most famous examples of this which drew the attention of the press was that of Melbourne Inman who was refused permission to continue working as a billiard table inspector with the Navy and Army Canteens Board in Knightsbridge.⁵⁴⁴ Instead, Inman was exempted from military service on condition that he did 36 hours a week with the Pelabon Works in Richmond and reported to Captain Carter every month.⁵⁴⁵ A. C. Harvey was required to leave the Civil Service and ‘a comfortable salary’ and find work of national importance.⁵⁴⁶

⁵⁴¹ TNA MH 47/5/7: Minute Book 7, 5 September 1918.

⁵⁴² TNA MH 47/5/7: Minute Book 7, 24 July 1918.

⁵⁴³ TNA MH 47/5/7: Minute Book 7, 25 September 1918.

⁵⁴⁴ TNA MH 47/5/6: Minute Book 6, 17 April 1918.

⁵⁴⁵ TNA MH 47/5/7: Minute Book 7, 31 July 1918.

⁵⁴⁶ TNA MH 47/121/7: Letter from the Joint Secretaries to the Middlesex Appeal Tribunal to the Secretary to the Pelham Committee, 14 July 1916.

Another form of sacrifice was to leave one's home and find work at a distance away which to some degree matched the sacrifice of the conscript at the front. Sometimes the Appeal Tribunal specified the number of miles at which an appellant was required to work from home. For example, F. G. Bowen was instructed to leave tram driving and find work 'about fifty miles from London'.⁵⁴⁷ Though a few appellants found work on farms, market gardens and nurseries in Middlesex and London in places such as Wembley,⁵⁴⁸ Feltham,⁵⁴⁹ Southgate,⁵⁵⁰ Ealing⁵⁵¹ and Tottenham,⁵⁵² the majority of men exempted for agricultural labouring frequently had to leave Middlesex and London to find work as both had small agricultural sectors. Some of these men found work in neighbouring counties where farming played a greater role in the local economy. Bedfordshire,⁵⁵³ Essex,⁵⁵⁴ Kent⁵⁵⁵ and Hertfordshire⁵⁵⁶ provided work for these men. Others had to travel as far as farms located in Bristol,⁵⁵⁷ Devon,⁵⁵⁸ Norfolk,⁵⁵⁹ and Wiltshire.⁵⁶⁰ It is reasonable to assume that some of the men exempted for farm labouring were not used to hard manual work and the skills involved and had to meet these challenges, no doubt with varying degrees of success. Many would have experienced a sense of displacement, isolation and homesickness. Conscientious

⁵⁴⁷ TNA MH 47/5/2: Minute Book 2, 26 September 1916.

⁵⁴⁸ TNA MH 47/5/3: Minute Book 3, 18 January 1917.

⁵⁴⁹ TNA MH 47/5/3: Minute Book 3, 21 February 1917.

⁵⁵⁰ TNA MH 47/5/5: Minute Book 5, 7 February 1918.

⁵⁵¹ TNA MH 47/5/7: Minute Book 7, 7 November 1918.

⁵⁵² TNA MH 47/5/7: Minute Book 7, 16 October 1918.

⁵⁵³ TNA MH 47/5/5: Minute Book 5, 24 October 1917.

⁵⁵⁴ TNA MH 47/5/5: Minute Book 5, 8 January 1918.

⁵⁵⁵ TNA MH 47/5/2: Minute Book 2, 24 August 1916.

⁵⁵⁶ TNA MH 47/5/5: Minute Book 5, 7 February 1918.

⁵⁵⁷ TNA MH 47/5/6: Minute Book 6, 8 May 1918.

⁵⁵⁸ TNA MH 47/5/2: Minute Book 2, 16 August 1916.

⁵⁵⁹ TNA MH 47/5/2: Minute Book 2, 8 November 1916.

⁵⁶⁰ TNA MH 47/5/2: Minute Book 2, 23 August 1916.

objectors who were part of an urban-based network of beliefs would no longer have had direct contact with that group and may have faced prejudiced behaviour from their fellow workers. On the other hand, men who had sought conditional exemption from any form of military service would have been content with their lot, even though it was not their ideal.

The system had a measure of flexibility in it in that men were allowed to undertake work more suitable to their abilities and interests. Vivian Whithair, for example, was permitted to work for the War Work Volunteers in lieu of joining the V.T.C.⁵⁶¹ Men who showed a readiness to make considerable sacrifices were sometimes granted greater leniency over what constituted necessary war work. The conscientious objector, Alexander Sim, who had been refused a passport to travel to Malta to work with the Red Cross by the War Office, was allowed by the Vacation Section to continue his work with the Y.M.C.A. at Winchester.⁵⁶² The Appeal Tribunal accepted ill-health as a justified reason for a man to apply for a change to his war work. S. A. J. Nichol, who was too sick to continue with his war work, which was unspecified in the minutes, was permitted by the First Section to transfer to lighter duties with the Army Canteen's Committee at Regency Street, Victoria.⁵⁶³ In the case of an appellant called W. J. Owen, the Appeal Tribunal decided at its committee meeting to allow him to delay taking up his work of national importance for three weeks due to ill health.⁵⁶⁴ To avoid a man having to find new work if his present work with an employer became less important in

⁵⁶¹ TNA MH 47/5/7: Minute Book 7, 2 October 1918.

⁵⁶² TNA MH 47/5/7: Minute Book 7, 5 September 1918.

⁵⁶³ TNA MH 47/5/5: Minute Book 5, 12 July 1917.

⁵⁶⁴ TNA MH 47/5/4: Minute Book 4, 22 March 1917.

terms of national interest, the Appeal Tribunal would contact the employer and request that he provide the man with alternative work of national importance.⁵⁶⁵

Men who had been conditionally exempted on condition of doing nationally vital work were under pressure to find such work within a certain time. It was the practice of the Central Tribunal to give men twenty-one days to find nationally indispensable work and Middlesex's Appeal Tribunal followed this example. At a Committee meeting on 17 May 1916, the Tribunalists were informed through a letter from the Central Tribunal that L. Harris who had appealed to them against the Appeal Tribunals' judgement had been given twenty-one days to find nationally important work.⁵⁶⁶ Following this precedent, the Appeal Tribunal granted C. C. Redmill twenty-one days to do the same. Such men therefore experienced the pressure of finding suitable work for themselves within a specified period of time, though if they had not found work for no good reason, they would become exempt only from combatant service, thus rendering them liable to non-combatant service.⁵⁶⁷ For those with no particular aversion to non-combatant military roles, this was not a significant problem, but of course for conscientious objectors, this presented a deeply undesirable fate. It could be argued that by giving the appellant the responsibility of finding work, he experienced some measure of autonomy within a constrictive system. However, the Appeal Tribunal reduced the length of time a conditionally exempted man had to find work of national importance from 21 to 14 days, which no doubt exacerbated the pressure such men felt, but which was probably a reaction to the increased need for men who were not at the front to contribute to the

⁵⁶⁵ TNA MH 47/5/7: Minute Book 7, 11 September 1918.

⁵⁶⁶ TNA MH 47/5/1 Minute Book 1, 17 May 1916.

⁵⁶⁷ TNA MH 47/5/1 Minute Book 1, 4 July 1916.

economic effort at home. The first record within the Appeal Tribunal's minutes of the decision to require a conditionally exempted man to find vital work within two weeks came on 21 November 1916.⁵⁶⁸ The practice of awarding two weeks continued throughout the War with the final record of a two week deadline coming on 11 September 1918.⁵⁶⁹

The system, however, was not inflexible. Ill health justified an extended period of time to find work of national importance. S. G. Page, for example, was given a month to find work of national importance, though if he wished to ask for further time because of continuing ill-health, he had to furnish a doctor's certificate to that effect.⁵⁷⁰ It was the practice of the Appeal Tribunal to grant leave of absence from their workplaces to men due to undergo operations, but nevertheless required from them at the end of their absence a further medical certificate.⁵⁷¹ Men were permitted to move from one workplace to another on condition that their new work constituted work of national importance equal to that of the original work. H. Gardner therefore was permitted by the First Section to leave his 24 hours a week in a munitions factory and spend his time in full-time food growing.⁵⁷² Men were able to suggest to the Appeal Tribunal what nationally important work they wished to do and if they had problems finding work, as long as they kept in contact with the Appeal Tribunal, they were able to negotiate new deadlines in which to find work. A good example of the length to which the Appeal Tribunal was prepared to accommodate such appellants and the limits to their patience

⁵⁶⁸ TNA MH 47/5/3: Minute Book 3, 21 November 1916.

⁵⁶⁹ TNA MH 47/5/7: Minute Book 7, 11 September 1918.

⁵⁷⁰ TNA MH 47/5/5: Minute Book 5, 13 February 1918.

⁵⁷¹ TNA MH 47/5/2: Minute Book 2, 31 October 1916.

⁵⁷² TNA MH 47/5/6: Minute Book 6, 16 May 1918.

is the case of S. Thornhill Tracey. Originally, Thornhill-Tracey's work with British Dyes was approved by the Appeal Tribunal's Second Section at the Committee meeting on Wednesday 19 July 1916.⁵⁷³ For some reason Thornhill-Tracey's employment came to an end and he was obliged to find new work. He clearly had succeeded in asking for further extensions to find work, but had failed to find it, for the Appeal Tribunal decided on 4 January 1917 that in his case 'no further time be allowed...to find Work of National Importance and that having failed to find work he be left available for service in the Army.'⁵⁷⁴ When Thornhill-Tracey informed the Appeal Tribunal he had found work, the Appeal Tribunal agreed that Thornhill-Tracey be asked to provide further details of it with a view to exempting him again if the work was suitable.⁵⁷⁵ Unfortunately for Thornhill-Tracey, the work was not approved at a committee meeting on 16 January.⁵⁷⁶ The matter of Thornhill-Tracey did not rest there for the Appeal Tribunal received a letter from an employer, a Mr P. T. Cooper, who was prepared to employ Thornhill-Tracey and it was resolved to 'let the letter lie on the table'.⁵⁷⁷ What sort of work Cooper was offering was not recorded in the minutes. At a committee meeting on 26 January 1917 it was noted that the Tribunal had received a letter dated 25 January 1917 from the Committee on Work of National Importance, but in spite of this, it was decided that Thornhill-Tracey's case had been heard on a number of occasions and that the Appeal Tribunal saw no reason to alter its decision to make Thornhill-Tracey available to military service.⁵⁷⁸ The Appeal Tribunal was prepared to give conditionally exempted men a fair chance to find work, even though it had reduced the deadline to find such

⁵⁷³ TNA MH 47/5/1, Minute Book 1, 19 July 1916.

⁵⁷⁴ TNA MH 47/5/3: Minute Book 3, 4 January 1917.

⁵⁷⁵ TNA MH 47/5/3: Minute Book 3, 9 January 1917.

⁵⁷⁶ TNA MH 47/5/3: Minute Book 3, 16 January 1917.

⁵⁷⁷ TNA MH 47/5/3: Minute Book 3, 24 January 1917.

⁵⁷⁸ TNA MH 47/5/3: Minute Book 3, 26 January 1917.

work, but there was a limit to the number of extensions it was prepared to give and the amount of work it was prepared to do with time-consuming appellants.

Where men failed to adhere to the conditions of their exemption, they faced the consequences. The Appeal Tribunal's Second Section decided not to permit G. C. Peirce to make a further application for exemption as he had left employment with a Mr Farrer which had been the condition of his exemption in the first place.⁵⁷⁹ Only under exceptional circumstances were conditionally exempted men permitted to leave work of national importance and only if they kept the Appeal Tribunal apprised of their situation. John Bayley was released from work of national importance from 5 September to October 5 1918 because of his wife's ill health, but was still required to report regularly on her condition, presumably because on the advent of her recovery or death, he was to return to work, and in the light of her continuing sickness, he was to have the chance to apply for an extension to his release.⁵⁸⁰

It was national practice that once a tribunal had exempted appellants, whether conscientious or not, conditionally so that he might perform work of national importance, his dealings with the tribunal system and the military service representatives did not end there. To retain his exemption, a man was required to remain at his workplace, for if he left his work he became immediately liable for conscription. To prevent C.Os. from avoiding the war work for which they had been conditionally exempted, tribunals across the country instituted forms of surveillance. The

⁵⁷⁹ TNA MH 47/5/5: Minute Book 5, 11 October 1917.

⁵⁸⁰ TNA MH 47/5/7: Minute Book 7, 5 September 1918.

Northamptonshire Borough Tribunal required the work schedules of conscientious objectors, which had been signed by employers, to be submitted weekly.⁵⁸¹ The Eton Rural Tribunal expected to receive monthly reports from employers that the work of conscientious objectors was adequate.⁵⁸² Monthly reports became the Middlesex Appeal Tribunal's policy, but before this rule was established, there were variations in how often the Tribunal required a man to report his continued employment. The first mention of the requirement for a report from a man conditionally exempted is in the minutes for a committee meeting on Monday 8 May 1916 and it concerned Henry G. Stansell who had been exempted on appeal on condition that he found work of national importance. At the committee meeting, Stansell's letter informing the Appeal Tribunal that he had found work in a bakery was presented. The committee resolved that his choice of work be approved and that his conditional exemption hold as long as he was employed in the baking trade and that he reported himself at the end of every three months to his local military service representative.⁵⁸³ The first man recorded as being required to provide a monthly report was R. M. Overton, whose agricultural work on a farm in Spalding, Lincolnshire was approved at a committee meeting on 9 May and who was expected to send a certificate proving his employment each month to the Military Service Representative at Hornsey.⁵⁸⁴ However, the one month rule was not yet established as on 16 May the committee permitted C. C. Redmill to work under the direction of the Home Grown Timber Committee of the Board of Agriculture as long as

⁵⁸¹ McDermott, *British Military Service Tribunals*, p. 51.

⁵⁸² *Ibid.*, p. 62.

⁵⁸³ TNA MH 47/5/1, Minute Book 1, 8 May 1916.

⁵⁸⁴ TNA MH 47/5/1, Minute Book 1, 9 May 1916.

he sent every two months a report from his employer to the local military representative.⁵⁸⁵

The pattern of monthly reports began with the cases of H. W. C. Henderson and F. E. Farrell. The nature of both cases suggests that the monthly report rule was implemented to prevent appellants from frequently changing the vital work they were performing, sometimes without the Appeal Tribunal's knowledge, thus making them less easy to monitor and increasing the Appeal Tribunal's workload as each change of work required discussion before being approved and correspondence with the employer and the appellant. Both cases also reveal that though the Appeal Tribunal eventually chose to demand monthly reports, it exercised a measure of flexibility and even leniency when dealing with appellants who were genuinely attempting to find nationally significant work, but were experiencing problems finding it.

Henderson had been exempted from combatant service to serve with the F.A.U. At an Appeal Tribunal committee meeting on 25 May 1916, it was decided that Henderson had to report to the Military Service Representative every three months.⁵⁸⁶ Henderson's first aid work was short-lived for a letter dated 5 June from the F.A.U. was presented to the Tribunal committee stating that Henderson was not suitable for ambulance work and asking whether he might be employed in agriculture instead. The Tribunal's response was to refuse.⁵⁸⁷ Henderson pressed his case by writing to the Appeal Tribunal informing them that a Norfolk farmer was prepared to employ him. The Appeal

⁵⁸⁵ TNA MH 47/5/1, Minute Book 1, 16 May 1916.

⁵⁸⁶ TNA MH 47/5/1 Minute Book 1, 25 May 1916.

⁵⁸⁷ TNA MH 47/5/1 Minute Book 1, 6 June 1916.

Tribunal approved this alternative and decided that Henderson was exempt from non-combatant service as long as he remained employed on the farm. Once again, Henderson was required to remain in this employment and send every three months to the local military service representative a report from his employer to prove he was still there. However, Henderson wrote once more to the Appeal Tribunal informing them that he was no longer employed by the farm in Norfolk but had found alternative agricultural work with Thomas Pepper who owned Grange Farm in Cambridge. The Tribunal accepted this change of employment at a committee meeting on 19 June 1916 on the usual condition that Henderson submitted a report every three months.⁵⁸⁸

Henderson was discussed again at a committee meeting on 11 October for his work at Grange Farm had come to an end and it was resolved that he was to be given an additional two weeks to find work of national importance subject to the Appeal Tribunal's approval. On 24 October, the First Section resolved to give Henderson a further two weeks to find work of national importance as it had not approved the work suggested for Henderson, though what that work was the minutes do not say. The First Section also stipulated that Henderson was to find work some distance from London.⁵⁸⁹

Eventually, Henderson found work which suited him and which won the Appeal Tribunal's approval. He was taken on by the War Victims' Relief Committee in Holland. Though Henderson was working abroad, he was nevertheless still required to submit every three months a report that he was still at work with the Relief Committee.⁵⁹⁰

⁵⁸⁸ TNA MH 47/5/1 Minute Book 1, 19 June 1916.

⁵⁸⁹ TNA MH 47/5/2: Minute Book 2, 24 October 1916.

⁵⁹⁰ TNA MH 47/5/2: Minute Book 2, 8 November 1916.

F. E. Farrell's case proved to be equally complex and protracted. An Appeal Tribunal committee meeting on 25 May 1916 noted that Farrell had informed them that he had found agricultural work with a farmer in Ilford, Essex. Farrell's work was approved by the Appeal Tribunal and his conditional exemption was granted on the usual condition that he remained within that employment and that each month he sent a certificate from his employer to the local military service representative to prove he was still employed on the farm.⁵⁹¹ Farrell, however, appeared in person on 30 May 1916 at the Tribunal's First Section just as the Tribunalists were closing the session and informed them that he had been dismissed by the farmer as insufficiently strong for farm labouring and that the Committee on Work of National Importance was engaged in finding him alternative work. Regester instructed Farrell to return to the Tribunal on 5 June when his case could be properly considered.⁵⁹² Farrell did not attend as was instructed for a letter from him dated 4 May 1916 was discussed at a committee meeting on the same day. The letter informed the Tribunal that Farrell had found work at Cox's Farm near Ilford. It was resolved to adjourn consideration of the case for one week to give time for evidence to come from Cox's Farm that Farrell had actually been employed there.⁵⁹³ At a committee meeting on 13 June another letter from Farrell dated 11 June was considered; what the letter said is not noted in the minutes, but it was resolved to let the matter stand over until the following Monday.⁵⁹⁴ On 19 June, the Tribunalists considered another letter from Farrell dated 18 June which accompanied a letter from a farmer, Isaac Lake of Aldborough Hatch near Ilford. The two letters testified that Farrell was now in Lake's employ. Again, the Tribunal resolved to sanction this new arrangement on the usual

⁵⁹¹ TNA MH 47/5/1 Minute Book, 25 May 1916.

⁵⁹² TNA MH 47/5/1 Minute Book 1, 30 May 1916.

⁵⁹³ TNA MH 47/5/1 Minute Book 1, 5 June 1916.

⁵⁹⁴ TNA MH 47/5/1, Minute Book 1, 13 June 1916.

condition that Farrell remained in agricultural work and that he sent every three months a report from Lake to the local military service representative that he remained engaged thus.

The Appeal Tribunal had a change of mind regarding Henderson and Farrell for on 21 June, the Tribunal decided at its committee meeting that both Henderson and Farrell were to report every month rather than every three months to the local military service representative. This stricter ruling was to apply to all C.Os. who had been exempted on condition that they performed work of national importance. Consequently, when the Tribunal received a letter from the Committee on Work of National Importance that it wished to employ a Middlesex appellant, A. E. Tyrer, on repairing Y.M.C.A. huts, the Tribunal resolved to approve this arrangement on condition that every month Tyrer sent a monthly report from his employers to the local military service representative testifying that he remained in their employment. When the Y.M.C.A. wrote to state that there would be a difficulty in reporting each month to the local military representative, the Appeal Tribunal resolved that a monthly report was nevertheless required and to inform the Y.M.C.A. that Tyrer himself could write a postcard confirming his employment to the military representative.⁵⁹⁵

The requirement of a monthly report and of personal sacrifice appears to have been the practice of the local tribunals also for the Appeal Tribunal advocated it to them. On 5 September 1916 Edwin Goodship, the Clerk to the Friern Barnet Local Tribunal, wrote to Austin asking him what the procedure was to check that a man who had been

⁵⁹⁵ TNA MH 47/5/1 Minute Book 1, 10 July 1916.

conditionally exempted for work of national importance or service with the V.T.C. was observing the conditions of his exemption, and what the rate of pay was for such men.⁵⁹⁶ The Joint Secretaries advised Goodship to follow the Appeal Tribunal's method and require 'the man to submit a monthly report from his employer to the local military representative' and remain in the work of national importance which had been approved by the Appeal Tribunal. If the man failed to submit reports, Austin and Hart advised that it was the responsibility of the local military representative 'to take any action which he considered necessary'. Goodship was also advised that work of national importance was usually found through the Committee on Work of National Importance or the F.A.U. which also remained in touch with the conditionally exempted man to ensure that he was employed as directed. As regards the rate of pay, it was the Appeal Tribunal's practice to 'to require the man to make a sacrifice'. The wages varied from 10 to 25 shillings a week. There was a measure of leniency in this for in the case of married men with children, the Appeal Tribunal 'did not press for any considerable monetary sacrifice.'⁵⁹⁷

Once temporary exemptions came to an end and the Appeal Tribunal was not prepared to grant a further extension, appellants became available to the military. Such a situation required a profound adjustment on the part of the conscripted man, his family and his employer. In 34 cases between January 1917 and September 1918, the Appeal Tribunal was prepared to ask for a delay in the call-up of men liable for conscription so that they could set their civilian affairs in order. In the case of A. Escott, for example, the Appeal

⁵⁹⁶ TNA MH 47/121/9: Letter from Edwin Goodship, Clerk to the Friern Barnet Local Tribunal, to W. G. Austin, 5 September 1916.

⁵⁹⁷ TNA MH 47/121/9: Letter from the Joint Secretaries to Edwin Goodship, 6 September 1916.

Tribunal awarded him a six months' delay because he was the sole proprietor of a business and needed time to find someone to maintain his business whilst he was serving.⁵⁹⁸ Escott's six month delay was unusually long, for fourteen days was the single most frequent request as the Appeal Tribunal asked this on behalf of 11 men. A month's reprieve was the second most frequent request as the Appeal requested it for 8 men. Clearly the Appeal Tribunal did not wish to deny men to the military too long, but it is worth noting that in the case of 15 men, the Appeal Tribunal requested delayed call-ups for periods longer than a month.⁵⁹⁹

These cases reveal not only that there was some attempt on the part of the Appeal Tribunal to be reasonable with such appellants, but also that the Appeal Tribunal was prepared to make its requests known to the military despite the pressures on recruiting officers and military representatives to procure men. It is an example of how the Appeal Tribunal was trying in this admittedly small number of cases to balance the individual needs of appellants with the collective need for conscripts. Such requests of the military were made despite the recruitment emergencies created by the collapse of the Russian war effort in October 1917, the bruising German offensives of March and July 1918 and the slow arrival of American troops whose contribution to the War only started to make itself felt in the final months of the War.⁶⁰⁰ That the Appeal Tribunal's minutes acknowledge agreement on the part of the Military Representatives, later to be known as the National Service Representatives, in a number of cases and that the Appeal Tribunal continued to make such requests over a near two year period indicates that such requests

⁵⁹⁸ ONE-MAN BUSINESS, H.C. Deb. 3 July 1917 vol. 95 cc. 906-7W.

⁵⁹⁹ TNA MH 47/5/3: Minute Book 3; TNA MH 47/5/5: Minute Book 5.

⁶⁰⁰ Stevenson, *1914-1918*, p. 297.

could be successful and that the balance of power between the Appeal Tribunal and the military was not necessarily in the military's favour.

One potent source of distress for an appellant was to be exempted from military service only to be taken by the military anyway. There are two recorded cases of this happening in Middlesex. One case was raised in the House of Commons; the other was raised with the military by the Appeal Tribunal. On 7 November 1916, William Anderson, the MP for Sheffield Aftercliffe, asked Henry Forster, the Financial Secretary to the War Office, whether he was aware of a Private C. Keen of the 23rd Middlesex Regiment, who had been exempted by the Appeal Tribunal to do non-combatant service, but who was conscripted anyway and was presently in France expected to fight. In reply, Forster assured Anderson that instructions had been given for Keen to be transferred to non-combatant duty.⁶⁰¹ The second case concerned a man called E. A. Brimley. At a committee meeting on 10 July 1916, a letter was considered from Brimley's wife informing the Appeal Tribunal that though her husband had been granted two months exemption on 12 June 1916, he had not yet been released from the Army. The Appeal Tribunal's Secretary informed the Tribunal that he had sent a letter to the Commanding Officer of the Irish Rifles at Winchester and the Tribunal resolved that the matter would stand over until communication from the Officer had been received. Brimley was considered again at a committee meeting on 19 July 1916. The Secretary observed that he had not yet received a response from the Commanding Officer, and it was Regester, the Chairman of Section One that had exempted Brimley, who resolved to ask Captain

⁶⁰¹ NON-COMBATANT CORPS, H.C. Deb. 7 November 1916 vol. 87 c. 15.

Bax, the Military Representative, to take up the matter with Eastern Command.⁶⁰² No further correspondence exists for Brimley's case and the outcome of the Appeal Tribunal's petition is unknown.

The Debacle of Medical Hearings

During the Victorian and Edwardian era, standards of health were very low among the urban working class, the largest single sector of the British population.⁶⁰³ During the War, over 41% of recruits were deemed unfit to engage in combat with 10% identified as unfit for any kind of military service.⁶⁰⁴ Before the Great War, weeding out the sick and disabled who sought to join the Army was not difficult for Army doctors were able to conduct medical examinations of recruits in an unhurried way. Once war was declared, the enormous number of volunteers who came forward meant that Army doctors were required to evaluate more than 200 men each day. Doctors were encouraged to err on the side of generosity when examining men for they were awarded a shilling for every man they passed fit and nothing for those they rejected.⁶⁰⁵ It is therefore no surprise that examinations became cursory and many unfit men were sent to the Army. Apart from *The Times* describing such a system as egregious, the system attracted no controversy for the men coming forward to serve were after all heroic volunteers, the epitome of Edwardian militarism, who wanted to be in uniform regardless of their condition.⁶⁰⁶ Under the Derby Scheme 1.1 million men attested which again placed an enormous workload upon medical officers who had to assess

⁶⁰² TNA MH 47/5/1: Minute Book 1, 19 July 1916.

⁶⁰³ J. M. Winter, *The Great War and the British People* (London: MacMillan, 1985), p. 49.

⁶⁰⁴ Ibid., pp. 55 and 59.

⁶⁰⁵ Ibid., p. 50.

⁶⁰⁶ McDermott, *British Military Service Tribunals*, p. 180.

each one. Examinations became very brief once more with the result that many unfit men found their way into khaki.⁶⁰⁷ This situation had to be remedied by Army doctors at training camps⁶⁰⁸ who added to the tribunals' workloads by returning the sick and disabled to them to apply for exemption.⁶⁰⁹

With the advent of conscription, it was decided to refine the system in an attempt to make it more accurate with three classifications that determined on the basis of a man's condition what sort of service he would be expected to perform. From January 1916 until late 1917, men were classified as to whether they were able to perform active service (grade A), support service (grade B) or sedentary duties (grade C). Grade B and grade C had subdivisions. Men classified as B1 and C1 were regarded as able to conduct support duties either abroad or at home. Men placed in classes B2 and C2 were deemed capable of garrison duty. Those in B3 and C3 groups were given clerical and sedentary duties.⁶¹⁰ Despite these refinements, cursory medical examinations however continued to be the norm as the county medical boards favoured the Army's recruitment policy as they were chaired by Army doctors.⁶¹¹

At first the tribunals did not appreciate how superficial medical examinations were due to the enormous workload they had to deal with in the first year of conscription. Two developments awoke the tribunals to the unjust conscription of unfit men. In the aftermath of the costly Somme campaign, the demand for men was unprecedentedly

⁶⁰⁷ Ibid., p. 181.

⁶⁰⁸ Winter, *The Great War*, p. 50.

⁶⁰⁹ McDermott, *British Military Service Tribunals*, p. 181.

⁶¹⁰ Ibid., p. vii.

⁶¹¹ Ibid., p. 181.

urgent and in order to replenish the Army with new conscripts, the percentage of recruits who were rejected on medical grounds dropped sharply from 30% in September 1916 to 6% by November. The percentage declined to a mere 3% in the first three months of 1917. Simultaneously, the number of men awarded class A doubled.⁶¹² Even when men were classified as C1, the Army considered it had a place for them. When with perhaps a sense of dismay and incredulity the Appeal Tribunal's Joint Secretaries wrote on 6 December 1916 to Captain Bax to verify whether it was indeed true that the Army had a 'pressing need' for C1 class men,⁶¹³ Bax's reply was predictably intransigent: the Army did indeed have use for such men, for with 'a proper military training', they could work for the R.F.A. (Territorial Force), or as A.S.C. drivers, whilst the rest were 'trained for Infantry work at home'.⁶¹⁴ As evidence, he forwarded a letter from A. W. James at the War Office who explained that the War Office had decided that as from 30 November 1916, except for skilled mechanics, C1 men were 'to be posted to a unit'.⁶¹⁵ The consequence was that many men who previously would never have made it into khaki were now being pressed into service.

Being passed fit for active service despite disablement or sickness was an experience that caused distress directly to the man, but it also outraged the tribunalists to whom the man appealed, something that was conspicuously the case with the members of the Middlesex Appeal Tribunal and with tribunals across the country. It was therefore over inaccurate medical examinations that the emotional responses of the appellants and

⁶¹² Ibid.

⁶¹³ TNA MH 47/121/12: Letter from the Joint Secretaries to Captain Bax, 6 December 1916.

⁶¹⁴ TNAMH 47/121/12: Letter from Captain Bax to the Joint Secretaries to the Middlesex Appeal Tribunal, 14 December 1916.

⁶¹⁵ TNA MH 47/121/12: Letter from A. W. James, on behalf of the Director of Recruiting to Captain E. V. Bax, 14 December 1916.

tribunalists to objection somewhat coincided. According to McDermott, ‘by the beginning of 1917, the Tribunals across the country had lost much faith in the competence and motives of the Medical Boards’.⁶¹⁶ The Middlesex Appeal Tribunal, however, was already aware by late August 1916 of the injustices perpetrated by Middlesex’s medical board situated at Mill Hill Barracks and the frustration of the Appeal Tribunalists at military insouciance to the plight of incapacitated men was already leading to irritated exchanges with the Military Representatives, Bax and Carter, during hearings.

The local and national press was quick to report the misjudgements of the medical boards and the debates that ensued between the tribunalists and the Military Representative. One such case was reported in the *Middlesex Chronicle*⁶¹⁷ and in the *Manchester Guardian*⁶¹⁸ of an unnamed 27 year old piano tuner whose case was heard by the Middlesex Appeal Tribunal on 30 August 1916. His appeal was made on the foundation that he had been passed fit for service by the Army’s Medical Board at Mill Hill, but now had certificates from his family doctor and a leading physician, Sir James Mackenzie, stating that he was medically unfit to serve. Bax argued that the man ought to be referred back to Mill Hill for re-examination as it was unfair that appellants obtained certificates after examination by the Mill Hill Board, but the Chairman, de Salis, disagreed.⁶¹⁹ According to the Chairman, referring the man back to Mill Hill was

⁶¹⁶ Ibid.

⁶¹⁷ ‘COUNTY TRIBUNAL AND DOCTORS FREE CRITICISMS’, *Middlesex Chronicle* (2 September 1916), p. 5

⁶¹⁸ ‘Appeal Tribunals: the Methods of a Medical Board’, *Manchester Guardian* (31 August 1916), p. 6.

⁶¹⁹ Although not named by the *Middlesex Chronicle*, the Chairman was identified as Cecil Fane de Salis by the *Birmingham Gazette*. See ‘CERTAIN HE WAS UNFIT: Tribunal Declines TO SEND MAN FOR FURTHER EXAMINATION’, *Birmingham Gazette* (31 August 1916), p. 5.

not possible because many of the examinations at Mill Hill were not proper examinations, the implication being that Mill Hill was more concerned about ensuring men were sent to the Colours rather than protecting unfit men from service. When Bax contended that the man was fit because doctors had found nothing abnormal with his heart, De Salis dismissed his objection by declaring it was unfair to submit him to the inconvenience of another medical examination and then waiting for the decision, which according to the Chairman was the practice of Mill Hill. Bax was not deterred for he stated that three doctors usually were in attendance at Mill Hill examinations and that five⁶²⁰ were present in difficult cases, but he was ignored by the Chairman.⁶²¹

The Appeal Tribunal's second Military Service Representative, Captain Carter was equally stubborn in defence of military policy towards sick men which led to abrasive exchanges between Nield and Carter. According to the *Derby Daily Telegraph*,⁶²² Carter had asked the Appeal Tribunal to deny a man of doubtful fitness exemption and allow the Army doctors to have supervision of his well-being. Nield refused to do this and lectured Carter on the unreliability of Army medics. According to Nield, he knew of the case of a man from Highgate which was authenticated by a Dr Fletcher whom Nield describes as a county magistrate. The man's employer made an appeal for him because this man was only capable of doing very light work in the market. The man was classed as C1 as he had been suffering from gastric abscess and ulcers and existed on

⁶²⁰ The figure of three doctors is given by both the *Middlesex Chronicle* and the *Birmingham Gazette*. The figure of five doctors for difficult cases is provided by the *Birmingham Gazette*. See 'CERTAIN HE WAS UNFIT: TRIBUNAL DECLINES TO SEND MAN FOR FURTHER EXAMINATION', *Birmingham Gazette* (31 August 1916), p. 5.

⁶²¹ 'Appeal Tribunals: the Methods of a Medical Board', *Manchester Guardian* (Thursday 31 August 1916), p. 6.

⁶²² 'DEATH OF A MAN PASSED AT MILL HILL. IN HOSPITAL TWO DAYS AFTER JOINING. MP. ON AN AWFUL CASE', *Derby Daily Telegraph* (2 September 1916), p. 3.

food specially prepared for him. According to his doctor, he was unfit for medical service. The military insisted on him, but within two days of joining up, he was in hospital and died of a gastric disorder because his diet had not been appropriate. Carter cast doubt on the veracity of Nield's facts which stung Nield into reminding him that Dr Fletcher, who was one of his sources, was a county magistrate, and that one of the leading medical practitioners in the district, who was not named in the article, testified to the case also and sent Nield the papers relating to the case which Nield stated were now in his bag. When Carter warned Nield that his attitude to such medical cases would make him 'distasteful to the authorities', Nield dismissed his warning by declaring that the Army had 'to clear up such cases'.⁶²³

Perhaps the most dramatic example of how the issue of wrongly diagnosed men was a source of anger for the Middlesex Appeal Tribunalists was reported by *The Birmingham Gazette* on 30 September 1916.⁶²⁴ The incident also demonstrates how the notion that the tribunals were intimidated by or were the recruiting organs of the Army was certainly not true of the Middlesex Appeal Tribunal. According to the report, a discussion was held between hearings at the Appeal Tribunal as to which medical classification was cause for an appellant to be sent to the Central Medical Board for re-examination when he had appealed against an Army medical board's judgement. Carter opined that only the certificates of specialists in opposition to the view of the medical boards ought to be accepted by the Tribunal for local practitioners were sometimes biased in favour of their patients. This angered the Chairman, Nield, who demanded to

⁶²³ Ibid.

⁶²⁴ 'WHERE DOCTORS DIFFER. TRIBUNAL VIEW OF THE CASES FOR MEDICAL BOARDS. A DISCUSSION', *Birmingham Gazette* (30 September 1916), p. 5.

know how the appellants might afford Harley Street specialists. He also pointed out to Carter that he had ‘over and over’ made inaccurate statements to the ‘court’.⁶²⁵ Nield concluded that the Appeal Tribunal had been ‘set up to hold the scales evenly between the Army and the men’ and that he was ‘not going to be reduced to a cipher.’⁶²⁶ Nield demonstrated his freedom of action by sending a number of cases back to Army medical boards accompanied by letters with his signature pointing out the medical problems these men had.

So emotive an issue was medical misdiagnosis that on one occasion it led to a serious rupture in the relationship between the Appeal Tribunal and the Harrow Local Tribunal. The matter was reported in *The Times* no less, though only fourteen lines of text on page three were granted to it. According to the report, the Harrow Local Tribunal had chosen to exempt a local butcher who had been classified as C1, but rejected the case of another butcher who was classified as A. The Military Representative appealed against the exemption, whereas the grade A man appealed against his rejection. The Appeal Tribunal overturned Harrow’s exemption of the C1 appellant and sent him to the Colours.⁶²⁷ The Appeal Tribunal was within its rights to do so, for a C1 classification meant that a man was eligible for support duties either at home or abroad. For the Harrow Local Tribunal to have exempted such a man, they must have come to the conclusion that the man’s condition was poorer than C1 and that indeed he was in no fit state to join up at all. On hearing that this man had been turned over to the military and that the grade A man’s appeal case had been rejected also, the Harrow Tribunal

⁶²⁵ Ibid.

⁶²⁶ Ibid.

⁶²⁷ ‘HARROW TRIBUNAL ON STRIKE’, *The Times* (14 April 1917), p. 3.

petitioned the Appeal Tribunal to re-hear both cases, which it refused to do. Why the Harrow Tribunal protested the rejection of the grade A man's case is unclear. The Harrow Tribunalists consequently suspended hearings until it had received 'a satisfactory reply' to its letter of protest. If that was not forthcoming, the Tribunalists threatened resignation.⁶²⁸

The situation was unprecedented and the Appeal Tribunal referred the matter to the L.G.B. whose response was recorded in a memorandum prepared by Hart who had been invited to the L.G.B. to discuss the matter. The memorandum was presented at the Appeal Tribunal's committee meeting for 26 April 1917. The two appellants who were anonymous in *The Times* report were named by Hart as H. Wright and D. J. Pratt. The L.G.B.'s response demonstrated the significant measure of autonomy the tribunals had in deciding matters for themselves. According to Hart, the L.G.B. had met with two representatives of the Harrow Tribunal who had communicated their views. The L.G.B., however, was of the opinion that the Appeal Tribunal's decision to refuse to re-hear these cases 'must stand, and that the Board could not intervene.' However, the Board wished to see 'the preservation of good relations and the smooth working between the Appeal Tribunals and the Local Tribunals.' With this aim in mind, the L.G.B. recommended that the Chairman of the Appeal Tribunal who had heard the case ought to meet with the Chairman of the Harrow Local Tribunal. Hart agreed to put the idea to the Appeal Tribunal.⁶²⁹

⁶²⁸ Ibid.

⁶²⁹ TNA MH 47/5/4: 'Memorandum: Harrow Local Tribunal', 25 April 1917.

The Appeal Tribunalists agreed that Burt, who had chaired the First Section which had decided the two cases, would meet with the Harrow Tribunal Chairman.⁶³⁰ For some reason Burt was unable to make the meeting with the representatives from Harrow and so De Salis went in his stead. The dispute appears to have been easily resolved for at the next committee meeting, De Salis reported that ‘the Chairman and the Clerk of the Harrow Local Tribunal...had gone away without any feeling of animosity with regard to the action of the Appeal Tribunal.’⁶³¹ How the matter was resolved and what was said at the meeting was not disclosed in the minutes. The speed at which the matter had been resolved may suggest previously very good relations between the two Tribunals and a common sense of purpose and cause in the midst of the overwhelming workload that the tribunals faced.

The problem of unfit men passed for active service was exacerbated by the Military Service (Review of Exceptions) Act in May 1917, prompted by the Army’s demand in the first four months of 1917 for 100,000 new men a month in order to carry out a ‘Somme-style offensive in the spring’.⁶³² Men who had hitherto been deemed unfit under the Derby Scheme and the Military Service Act could be called to be re-examined at any time to see if their health now permitted them to serve. The consequence was that a whole section of the male population that had been rejected now found itself within the reach of the military, with many men being classed on re-examination as fit to serve in some form when palpably they were not. Of course, a man retained the right to appeal against his re-grading by applying to his local tribunal, and if not satisfied with his local

⁶³⁰ TNA MH 47/5/4: Minute Book 4, 26 April 1917.

⁶³¹ TNA MH 47/5/4: Minute Book 4, 1 May 1917.

⁶³² DeGroot, *Blighy*, p. 100.

tribunal, he could appeal to his appeal tribunal, but unless a tribunal agreed that he had been poorly assessed, nothing stood between the man and military service.

It was the public outcry over the many wrong medical classifications prompted by the new Act that led to the creation, in November 1917, of National Service Medical Boards (N.S.M.B.) staffed by civilian doctors called Medical Assessors at the recommendation of the Shortt Committee. The Medical Assessors for Middlesex were appointed on 23 January 1918. The committee consisted of eight physicians and eight surgeons and men were examined 'at the rooms of the Royal Society of Medicine' at 1 Wimpole Street, London.⁶³³ With the civilian boards came a new classification system for the sick and infirm. Men who had enlisted were graded in the following way: grade 1 which was the equivalent of class A under the old system; grade II (classes B1 and C1); grade III (classes B2 and 3, C2 and 3) and grade IV (failed).⁶³⁴

According to McDermott, the creation of the National Service Boards reduced the number of inaccurate medical reassessments significantly.⁶³⁵ The experience of the Ealing Local Tribunal, however, was that an unacceptable number of unfit men were still being conscripted. D. A. Griffin, the Chairman of the Ealing Local Tribunal, made a strong protest to Nield on 24 September 1917. Alderman Griffin criticised the general recruitment policy for failing to impress fit men and therefore making the calling of unfit men seem a necessity and wished to suggest reform. Griffin was of the view that the responsibility for recruitment was now 'under review' and had passed from the

⁶³³ TNA MH 47/122/14: Letter from H. M. Bright to the Secretary to the Appeal Tribunal, 23 January, 1918.

⁶³⁴ McDermott, *British Military Service Tribunals*, p. vii.

⁶³⁵ *Ibid.*, p. 181.

military to civilian authorities, it was ‘an opportune moment to earnestly impress upon His Majesty’s Government the urgent necessity of revising the Certified and Protected Occupation Lists, so that every single man, from 18 to 25 years of age, and fit for general service, should be made available for Military Service in order to create a large reservoir of suitable fighting men, save expense, and prevent hardship.’ The Chairman stated that the cases that were coming before them consisted ‘largely of low category men, physically incapable of Military service’. These men were the ones that the military were now ‘pressing’ for. Griffin objected to these men doing military service for a number of reasons. First, they were ‘for the most part carrying on useful and necessary work at home, and in many cases, to take them into the Army would mean closing small businesses, great hardships, and loss and inconvenience to small Traders.’ To take these men into the Army would add ‘to the already overburdened expenses of the Country’ and would not add to ‘the efficiency of the fighting forces.’ The liability to separation and pension allowances would increase. These men were not able to ‘stand the strain of training’ and fell sick or died. Others were placed in labour battalions, but did no work of importance, or were ‘placed in the reserves and then sent as substitutes...to work’ in which they had ‘no previous training’ and for which they were ‘unsuitable, thus causing labour unrest, dissatisfaction and decreased output’ in the works in which they were employed. An adequate supply of fit men to the Armed Forces, a maintenance of munitions output, the productivity of the essential occupations and a large saving in national expenditure could be achieved if the principle of ‘single men first’ were adhered to. The Chairman was of the opinion that ‘no single man of 25 years of age can be said to be indispensable in civil occupation’. The Chairman made an exception for those ‘young men engaged in special work’, but even they could be

replaced by married men being released from the Army who were skilled in the same profession as these young men, who had volunteered ‘at the announcement of the War and have done their duty in the fighting forces at great personal sacrifices to themselves, their wives and their families.’ The Chairman also drew Nield’s attention to those young men who had ‘gone into the Mines and Munitions work solely to escape Military service’ and were protected by the Certified and Protected Occupation Lists.’ Griffin opined that these young men should be taken from these works and replaced by ‘women labour and unfit men in the Army’ and ‘so add a large number of young fit men to the Forces without impairing the output of the essential munitions work or causing labour unrest.’ The Chairman wished for the tribunals to be given the authority, after a hearing, to cancel Protection certificates which ‘appear to be granted wholesale to every employee working for firms under Government control.’⁶³⁶ A copy was enclosed with Griffin’s letter of the Ealing Local Tribunal’s unanimous resolution of 24th September 1917:

‘We, the Members of the Ealing Tribunal, being impressed with the high percentage of LOW CATEGORY OF MEN now appearing before us, consider it would eliminate considerable hardship, and increase the efficiency of the fighting forces, if Single Class A men, between the ages of 18 and 25 could be taken for military service in larger numbers from Munitions works. We therefore respectfully urge that some steps be taken in this direction without delay.’⁶³⁷

Though there is no surviving response from Nield to Griffin and the Ealing Members, as shall be seen in chapter five, such protests fuelled Nield’s own protests in the Commons over the conscription of unhealthy men.

⁶³⁶ TNA MH 47/122/10: Letter from D. A. Griffin, Alderman of the borough of Ealing and the Chairman of the Ealing Local Tribunal to H. Nield, Esq., 24 September 1917.

⁶³⁷ TNA MH 47/122/10: Copy of Resolution unanimously passed at a Meeting of the Local Tribunal for the Borough of Ealing, on Monday 24 September 1917.

In total the Middlesex Appeal Tribunal received 1,539 applications for medical re-examination, an addition to its workload which it could contentedly have done without and would have avoided if doctors had been accurate in their diagnoses. The Appeal Tribunal certainly deserves its reputation for clemency with the sick and infirm who in turn must have felt much gratitude to the Tribunalists for giving them another chance to avoid the suffering inappropriate service would have inflicted on them. During the time of the Army medical boards, the Appeal Tribunal allowed 920 appellants to be diagnosed by the medical assessors; during the time of the National Service civilian doctors boards, 327 men were sent for re-examination. 81% of appeals therefore on medical grounds resulted in further medical investigation. Only 134 applications were refused which represents a mere 8.7%. The remaining cases were either pending at the end of the War or had been withdrawn.⁶³⁸

Being sent for re-examination did not, however, mean that a man would receive a lower grading and therefore avoid military service. In summing up its case statistics on 9 November 1918, the Appeal Tribunal recorded that it knew of 886 outcomes of the 1247 applications for medical examination it had granted. 422 of these cases had had their medical grading left unchanged; 29 gradings had been raised; and 425 had been lowered.⁶³⁹ Moreover, though the Appeal Tribunal was sympathetic towards men appealing against misdiagnosis and sent large numbers back to the civilian boards for re-examination, such compassion nevertheless did not prevent the Appeal Tribunal from expecting men who had been passed as grade III from playing their part in the war effort and receiving exemption on the same conditions as men who had been exempted

⁶³⁸ TNA MH 47/143/2: APPLICATIONS FOR MEDICAL RE-EXAMINATION.

⁶³⁹ Ibid.

conditionally on non-medical grounds. According to those cases recorded in the Appeal Tribunal minutes,⁶⁴⁰ most men were conditionally exempted for four months with a minority receiving three months conditional exemption. Men such as L. E. Dunkin, were exempted conditional on their remaining in their present occupation.⁶⁴¹ Others like H. Godfrey were exempted from military service on condition that they took on work of national importance. In Godfrey's case, he was directed to work for 36 hours a week with the Saper Aviation Authority. Some men were required to continue in their places of work and perform additional work of national importance. D. Watt, for example, was exempted from military service for four months by the First Section on condition that he remained in the same occupation and worked for two days a week at Ealing War Hospital.⁶⁴² An alternative to performing additional work of national importance was to serve with a uniformed force. T. A. Fenwick was granted temporary exemption for four months with leave to apply again on condition that he joined the Volunteer Force.⁶⁴³ H. Whitaker, W. S. Weatherly and O. A. Copp were granted 4 months exemption from military service by the Second Section on condition that they continued as Special Constables. P. W. Piddlesden was exempted for four months from military service as long as he continued as a fireman at a P.O.W. camp.

As with men who had been exempted conditionally on other grounds, grade III appellants were required either to send a monthly report to the National Service Representative or the Appeal Tribunal itself as evidence that they were adhering to the

⁶⁴⁰ TNA MH 47/5/6: Minute Book 6, 16 May 1918.

⁶⁴⁰ TNA MH 47/5/7: Minute Book 7, 10 July 1918.

⁶⁴¹ TNA MH 47/5/7: Minute Book 7, 10 July 1918.

⁶⁴² TNA MH 47/5/7: Minute Book 7, 18 July 1918.

⁶⁴³ TNA MH 47/5/6: Minute Book 6, 16 May 1918.

conditions of their exemption. A. W. Thompson was exempted for four months on condition that he reported to the Tribunal every month and performed 12 hours a week of work of national importance.⁶⁴⁴ G. Hodkin was exempted by the First Section from military service for three months on condition that he did work of national importance with Messrs W. and G. du Cros and reported monthly to Captain Carter.⁶⁴⁵

The longest any appellant was exempted for was six months with the conditions attached remaining the same. Thus, the First Section gave A. Townsend conditional exemption and temporary exemption for six months as long as he continued in his present employment and in the Special Constables. The treatment of the sick and infirm by the Appeal Tribunal and the medical boards, both Army and civilian, reveal how pervasive and deeply held was the belief that every man, sacrificially, ought to make a contribution to the war effort.

The Experiences of The Middlesex Appeal Tribunalists

In his 'Memorandum for the Chairman' in which he summarised the experience of tribunal work, William Regester confessed that neither he nor any member of the Middlesex Appeal Tribunal at the time of their appointment had 'any idea of the magnitude of the task which they were undertaking'.⁶⁴⁶ Henry Cartmell, the Preston Local Tribunal Chairman, was of the opinion that the number of men who sought exemption far exceeded the numbers expected and that the Tribunals' work in 'busy

⁶⁴⁴ TNA MH 47/5/7: Minute Book 7, 11 September 1918.

⁶⁴⁵ TNA MH 47/5/7: Minute Book 7, 18 July 1918.

⁶⁴⁶ TNA MH 47/5/7: Minute Book 7, 'Memorandum by the Chairman', 21 November 1918.

areas made very heavy demands upon the time of their members.⁶⁴⁷ Regester's comment is representative of the Appeal Tribunal as his *Memorandum* was approved at the last Appeal Tribunal committee meeting on 21 November 1918. Cartmell's conclusion, which mirrors Regester's, was the experience of a local tribunalist and as shall be seen, the experience of the Middlesex local tribunalists also. Though the caseload of the Middlesex tribunals was not constant, but fluctuated, the overall impression was that it was very heavy.

The busiest time for all tribunals was during the period from January to August 1916 with three-quarters of a million men seeking exemption during this time.⁶⁴⁸ The Middlesex Appeal Tribunal experienced an eruption of work during the same period, though the busiest month for the Appeal Tribunal during the initial period of conscription was September. Individual monthly totals of cases calculated by the Appeal Tribunal's Clerks do not exist for March, April and up to and including 31st May 1916, but are totalled together alongside the individual monthly totals for June, July and August provided at the end of the 'Return showing the number of cases dealt with up to and including 31st August 1916'.⁶⁴⁹ The statistics reveal that by May 1916, 1268 cases had been heard. This meant that on average each month since January, 254 cases were heard. By the end of August 1916, however, another 1698 cases had been heard. Of these, 544 cases were heard in June, 567 in July and 587 in August. The sudden upsurge in the Appeal Tribunal's workload can be accounted for by the passing of the Second Military Service Act in May 1916 which made married men of military

⁶⁴⁷ Cartmell, *For Remembrance*, p. 68.

⁶⁴⁸ Rae, *Conscience and Politics*, p. 98.

⁶⁴⁹ TNA MH 47/143/1/1: Weekly Statistics and Returns of Cases.

age eligible for conscription. The decision to enlarge conscription's scope was the consequence of the military's conviction that it did not have enough men and the strategic preference for the offensive.⁶⁵⁰ The consequence was that all tribunals became busier as more men became eligible to seek exemption and to appeal against their decisions. Married men, it can be argued, were more likely to seek exemption than their single counterparts. From the Middlesex Appeal Tribunalists' subjective point of view, the more than doubling of the number of cases being heard not only meant simply that they had to work harder, but perhaps was a source of frustration in that the careful consideration of each case was less possible due to time constraints.

The Appeal Tribunal's statistics for the beginning of September 1916 to the end of April 1917 reveal that the workload remained high. The number of cases dealt with each month were recorded as follows:

September 1916: 543

October 1916: 555

November 1916: 510

December 1916: 365

January 1917: 540

February 1917: 568

March 1917: 539

April 1917: 462.

⁶⁵⁰ Grieves, *The Politics of Manpower*, pp. 28-29.

The anomaly is December 1916 which is explained by the fact that the Appeal Tribunal brought its hearings for that month to an end on 20th and resumed them nearly two weeks later on 2 January. This long break in proceedings was partly caused by the Christmas festival, but also probably by the Appeal Tribunalists' sense that they had worked very hard during 1916 and needed a time of recuperation before their labours began in the New Year.⁶⁵¹

Apart from revisions to certified lists and the Military Service Act (Convention with Allied States) 1917 which provided for the conscription of British subjects living abroad and allied subjects living in Britain, the absence of substantive legislation that affected the rate of British conscription rates meant that the volume of new applications for exemption was relatively low during the period from June to September 1917.⁶⁵² The workload the Middlesex Appeal Tribunalists faced during this time roughly approximates to this pattern. June 1917 proved to be very busy with 699 cases decided with 179 cases awaiting judgement and 15 adjourned cases in order that substitutes might be found.⁶⁵³ The workload, however, subsided after June and continued to be low up to and including November 30 1917. During that period, 1131 cases were decided, though 243 awaited judgement and 3 were adjourned substitution cases.⁶⁵⁴ The monthly average of judged cases was therefore an easier 226.

⁶⁵¹ TNA MH 47/143/4: Statistical Returns to the Local Government Board.

⁶⁵² McDermott, 'The Work of the Military Service Tribunals', p. 37.

⁶⁵³ TNA MH 47/143/4: Statistical Returns to Local Government Board

⁶⁵⁴ Ibid.

This period was a lull before the storm of 1918. As the Appeal Tribunal's own statistics for this period have not survived,⁶⁵⁵ it is the M.N.S. 3281 forms which the National Service Representatives completed each week detailing the outcome of tribunal hearings that provide the data. Unfortunately, not every month has complete records, but those that do reveal the extraordinary work pressures the Appeal Tribunalists were under. January was a relatively quiet month with 125 cases decided and 56 adjourned. February was the turning point with 95 cases decided and 270 adjourned. March saw a staggering 153 cases judged with 426 adjourned. With the raising of the conscription age to 50 in Spring 1918, June was the busiest of all with 171 cases heard and 622 adjourned, a pattern that Ivor Slocombe detects also in the workload of the Swindon Local Tribunal.⁶⁵⁶ What is salient from these statistics is how many adjournments were given. A note added to one of the M.N.S. 3281 records for the week ending 24 September explained that 75 adjournments for that week had been given so that appellants might be able to find work of national importance. Another cause of an increase in the number of cases the tribunals were dealing with has been hitherto discussed in this chapter: the continuing problems of poor medical assessments. In order to manage the medical appeals caseload, the Appeal Tribunal instituted an additional weekly meeting during August and the first week of September 1918 to deal with such cases.⁶⁵⁷

Another cause of the increased workload was the Government's manpower policy of 1918. With the US declaration of war in April 1917 and its growing participation on the

⁶⁵⁵ The Appeal Tribunal's summary of its statistics for the whole of the conscription period, however, do survive.

⁶⁵⁶ Ivor Slocombe, *The First World War Tribunal in Swindon*, p. 5

⁶⁵⁷ TNA MH 47/143/1/2: Army Statistics.

Western Front, the British anticipated that American troops would solve the manpower shortfall and therefore were reluctant to engage in large-scale recruitment drives. Instead, passing legislation to meet sudden, short-term needs through the release of men from formerly protected industries was deemed to be the best policy.⁶⁵⁸

As discussed already in the Introduction, the first piece of legislation that grew out of this thinking was the Military Service Act 1918 which became law on 19 February 1918. This Act allowed for the cancellation of a man's exemption due to his occupation, thus allowing, according to the Act's architect, Auckland Geddes, the opportunity to conscript young fit men in bulk. In January the list of protected occupations was revised extensively to remove protection from young, healthy men. With the onset of the initially very successful German or 'Michael Offensive' on 22 March, a royal proclamation was issued on 20 April which cancelled all exemption certificates of men under 23 years of age and fit enough to serve.⁶⁵⁹ Although it is not possible to ascertain how many did so, it is likely that some of these men would have applied for exemption on other grounds and if denied, would have appealed, thus adding to the tribunals' workload. Regester, the Middlesex Appeal Tribunal Chairman, complained that the fresh lists of protected and certified occupations made the tribunalists' tasks more complicated, a challenge that was exacerbated by precedents set and decisions taken by the Central Tribunal and the new regulations and amendments that were 'showered' upon the tribunals by Government.⁶⁶⁰ The Chairman of the Preston Local Tribunal, Henry Cartmell, echoed Regester's complaints when he was moved to complain how

⁶⁵⁸ McDermott, *British Military Service Tribunals*, p. 27.

⁶⁵⁹ *Ibid.*, p. 28.

⁶⁶⁰ TNA MH 47/5/7: Minute Book 7, 'Memorandum by the Chairman', 21 November 1918.

the 'labours' of his tribunal were made more difficult by the frequency with which the list of reserved occupations were revised.⁶⁶¹

A second piece of legislation that affected the workload of 1918 and caused the Middlesex Appeal Tribunalists distress and confusion was the Military Service (No. 2) Act which became effective on 2 May. It raised the conscription age to 50 years which would allow young garrison and support troops to be replaced by their elders and transferred to the front. Many older men who now found themselves within the grasp of the army would have sought exemption and it is clear that the tribunals generally were sympathetic to their plight and were ready to provide exemptions for married men among this age group.⁶⁶² This, of course, meant listening to their cases and therefore a greater workload. Regester in his 'Memorandum' was equally withering in his discussion of the effects of legislation raising the upper limit of the conscription age as he had been of the revision of protected occupations. According to Regester, the 'administration of the Acts and innumerable regulations under them became a matter of considerable difficulty and complexity' for the Appeal Tribunal. In particular, the Appeal Tribunal's work was made 'increasingly anxious and difficult' because the legislation to conscript men gradually widened the definition of those eligible to serve from single men and childless widowers under the age of 41 to all men under the age of 41 and finally to all classes of men under the age of 51. Regester concluded in frustration and rather hyperbolically, that this legislation 'had a far more reaching effect than any legislation within the memory of man' as it created an onerous workload for

⁶⁶¹ Cartmell, *For Remembrance*, p. 69.

⁶⁶² Ibid.

the Appeal Tribunal and a diverse variety of cases which made rendering the correct judgement often a complex matter.

Statistics for the caseload of the Middlesex local tribunals do not exist, but clearly an often almost unbearable workload for the Appeal Tribunal meant that its local tribunals were enduring a heavy caseload also for they were the source of the Appeal Tribunal's work. But there is source evidence for the local tribunals' feeling that their work was too heavy and it lies in the Appeal Tribunal's adjournment of cases.

For the period from January to June 1916, the number of adjournments are missing from the Appeal Tribunal's statistics for 12, 19 and 26 April and 21 June, but the existing reports record that the number of adjournments for this period is 568. As the average number of weekly adjournments is 35.5, if the missing reports are taken into account, the number of adjournments may have been another 126 which raises the total to 694.⁶⁶³ According to the Appeal Tribunal's own set of statistics which run as a complete set from 5 September 1916 to 26 April 1917, 1334 adjournments were given. The highest monthly total was January during which 256 cases were adjourned with on average 167 cases being adjourned each month. In contrast, the average monthly total as recorded by Bax and Carter for April to August 1916 was 114.

Adjournments could be give for a variety of reasons such as time being given to find a substitute in substitution cases and to acquire work of national importance in conditional exemption cases. Another reason was provided by Bax and Carter in their

⁶⁶³ TNA MH 47/143/1/1: Weekly Statistics and Returns of Cases.

weekly summaries of the Appeal Tribunal's decisions for the local military committee. At the bottom of Army Form W.3281, on which the summaries were provided, there was a section titled 'REMARKS ON WEEK'S REPORTS FROM LOCAL TRIBUNALS'. For the weekly reports for 3 May, 10 May, 24 May and 31 May when the number of adjournments was respectively, 57, 32, 55 and 43, Bax and Carter explained that a short adjournment was given instead of a temporary exemption which prevented any further application to the local tribunal. It appears that the Middlesex local tribunals were feeling stretched by the number of appellants they were facing and the Appeal Tribunal was attempting to ameliorate the situation, for if a temporary exemption had been given on appeal when the original tribunal had denied exemption, when the temporary exemption had expired, the appellant would have had to return to his local tribunal to apply for another exemption, thus increasing the local tribunal's workload. By adjourning the case, the Appeal Tribunal ensured that the appellant had some form of temporary exemption, though not in name, and when the adjournment expired, it was the Appeal Tribunal that dealt with the case.

The Appeal Tribunal had help in expediting proceedings from solicitors representing appellants. Cartmell, the Chairman of the Preston Local Tribunal, was of the opinion that solicitors added little to the strength of an appellant's case unless there was a technical point to decide. He concluded that 'the dullest man before a patient and sympathetic tribunal is his own best advocate.'⁶⁶⁴ The Second Section of the Middlesex Appeal Tribunal took a different position. It was resolved on 1 May 1918 by the Second Section that the presentation of cases by 'professional representatives' had prevented

⁶⁶⁴ Cartmell, *For Remembrance*, p.82.

the prolongation of cases and ‘considerable hardship’ being inflicted on appellants who were ignorant of their rights due to the complexity of the statutes and regulations and binding decisions of the Central Tribunal and therefore could not present their cases in the correct form. Though it must be conceded that the Appeal Tribunal behaved poorly towards absolute objectors and minority religious groups such as the Christadelphians, it is important to emphasise from the above statement how much concerned the Appeal Tribunal was that appellants generally should know what their rights were under conscription law.

How busy the Middlesex Appeal Tribunal was with its caseload in comparison to other appeal and local tribunals is difficult to judge in the light of the lack of surviving evidence. What evidence that does exist suggests that the Middlesex Appeal Tribunal tackled a middling workload when compared to other Appeal Tribunals. Middlesex heard 8791 original appeals and 11,307 cases in total. By comparison the Northamptonshire Appeal Tribunal heard 12,150 cases in total and the Birmingham District Appeal Tribunal heard 7333. Although caseloads were expectedly higher for local tribunals who dealt with every appellant who sought exemption in their jurisdiction, it is of note how large the caseloads could be for local tribunals. The Birmingham City Local Tribunal heard an enormous 90,721 cases, the Leicester City Local Tribunal heard 52,385 and the Bristol City Local Tribunal heard 41,000. On the other hand the Newport Pagnell Local Tribunal heard 593 cases.⁶⁶⁵ The Birmingham, Leicester and Bristol Local Tribunals, however, were hearing cases from large, densely populated, urban areas whereas the local tribunals of Middlesex did not have singularly

⁶⁶⁵ McDermott, *British Military Service Tribunals*, pp. 219-220.

such large areas to cover. However, because of the varied demographic nature of what constituted the Middlesex jurisdiction, the caseload varied from tribunal to tribunal. It is reasonable to assume, however, that the busiest tribunals such as those at Tottenham and Willesden must have found the workload as uncomfortable, if not more, than the Appeal Tribunal.

Another indicator of the level of work involved was the number of times a tribunal sat for hearings. Fortunately, the Middlesex Appeal Tribunal kept statistics detailing the number of sittings of each section and how many times each Tribunalist had attended. Clearly the Appeal Tribunalists were a hardworking group, but there were variations between them in terms of how many sittings they attended which reveal that some of the Tribunalists experienced the burden of work to a greater extent. The causes of those variations in attendance are not provided by the statistics, but personal circumstances, ill-health and professional commitments which continued to warrant attention were the most likely causes. The first set of statistics was published for meetings from the first meeting on 2 March 1916 to the last meeting of May 1918.⁶⁶⁶ During that time, the First Section was recorded as having sat for 243 times; the Second Section was recorded as having sat for 242 times. The most frequent attendee of the First Section was de Salis who managed 223 appearances. Buckmaster who replaced Balkwell Luke obviously had the lowest attendance with 116 appearances out of 140 possible appearances during that period. Though Regester was the Chairman of the Appeal Tribunal and Chairman of the First Section, his attendance was 187 appearances. Other than Buckmaster, Sharpe's attendance was the lowest with attendance at 178 sittings. Of the Second Section, the

⁶⁶⁶ TNA MH 47/143/2/04: Return of Attendances.

most frequent attendee was Burt with 230 attendances out of a possible 242. The next most frequent attendee was Nield with 221 attendances. The least number of attendances was that of the Earl of Strafford who managed to attend 181 times. Of the two Sections, the most frequent attendee was Burt. The average number of attendances across both Sections expressed as a percentage of the number possible over the period from March 1916 to May 1918 was 83.307%, which suggests a strong level of commitment to voluntary public duty on the part of the Tribunalists. Of the two Sections, the First Section had an average of 81.916% attendance out of the possible number of attendances, whereas the Second Section did slightly better with 84.698% possible attendance. The Return of Attendances also noted that during the March 1916 to May 1918 period, the whole Tribunal sat in addition to the Section hearings on five occasions: 2, 13 and 16 March 1916 and 11 and 15 April 1918. All of the Tribunalists sat either for four or five of these sittings apart from the latecomer, Buckmaster, who attended one sitting. De Salis and Buckmaster, though members of the First Section, also attended meetings of the Second Section on three and one occasion respectively. Balkwell Luke does not appear in the statistics because his attendance figures became irrelevant in the light of his early resignation.

When examining the statistics for the whole period of conscription from 2 March 1916 to November 1918, the number of meetings of the whole Tribunal was given as 226 with the First Section meeting in total for 262 times and the Second Section meeting for 263 times. The Vacation Section sat for six times and drew for its membership from both Sections. Those members of the First Section could therefore have attended a maximum of 494 times. Those members of the Second Section could have attended a

maximum of 495. As with the statistics provided by the Return of Attendances for March 1916 to May 1918, de Salis remained the most frequent attendee of the First Section with 449 attendances. Burt remained also the most frequent attendee of the Second Section and of either Section with 250 attendances. The First Section had an average of 79.88% attendance as a percentage of total possible attendances; the Second Section managed an average of 83.65%. When compared to the Return of Attendances which provides statistics for the period from March to May 1918, the Summary of the Sittings of the Appeal Tribunal, which provides statistics for the whole conscription period, demonstrates that there was a slight worsening of attendance on the part of both Sections from May 1918 onwards. For the First Section, there was a decline of 2.036% in average attendance whereas for the Second Section, there was a decline of 1.042%.⁶⁶⁷

Duty and Sacrifice

In his apopemptic ‘Memorandum by the Chairman’, Regester demonstrates how important the commitment to duty and to making a sacrifice was in the minds of the Appeal Tribunalists. As testimony to the stability and consistency of the Tribunal and as a testimony to personal levels of commitment to duty, Regester notes that the men whose names he had submitted to the Local Government Board to serve on the Appeal Tribunal were still with the Tribunal in November 1918 with one exception, that of ‘Mr Luke’ who was forced to resign because of ‘unavoidable circumstances’.⁶⁶⁸ Though the relationship between the Appeal Tribunal and its Military Representatives had often not been smooth, in a moment of possible sentimental reconciliation, Regester was prepared to acknowledge the ‘able assistance’ of Captain Bax, their first Military Representative.

⁶⁶⁷ TNA MH 47/143/2/05: Summary of the Sittings of the Appeal Tribunal.

⁶⁶⁸ Ibid.

He also acknowledged the work of Major Viccars who provided temporary assistance when the Tribunal chose to sit in two Sections and Captain Carter who replaced Viccars and continued the work single-handedly when Bax was given an appointment elsewhere. Regester concluded his praise by thanking all three men for assisting in discharging 'an exceedingly difficult duty.'

With regards to sacrifice, Regester wrote of the 'magnitude of the task' that the Appeal Tribunal faced, a task which came as a great surprise to the Tribunalists who were not expecting it. He describes the Tribunalists as devoted to their country on the basis that they had conducted themselves 'at great personal sacrifice'. One such sacrifice was to endure being made the object of litigation at the High Court which no doubt aggrieved the Tribunalists who were performing their tasks voluntarily and in conjunction with their busy civic and political careers. Regester chose to address those three occasions when the Appeal Tribunal was made the object of court cases at the High Court. That Regester chose to turn his colleagues' attention to these cases in his Memorandum's final comments suggests that legal action by appellants against the Appeal Tribunal, though rare, was another source of that anxiety that Regester describes as being felt when trying to apply increasing levels of legislation fairly to an enormous number of cases. The first case was that of Ludwig Naumann who applied to the High Court for a mandamus to be imposed on the Appeal Tribunal so that it would hear his case properly according to the Statutes for he supposed that the Tribunal had been prejudiced against his German name. The second case was that of Guiseppe Mongiardine who applied for a mandamus because he believed that the Appeal Tribunal had allowed matter that was irrelevant and prejudicial to his case to be heard. William Flewett applied also for a

mandamus because he alleged that the Appeal Tribunal had refused to hear his case. It is with a sense of justification, and even relief, that Regester records that in each case he or Nield made an affidavit with the result that the cases were dismissed and the decision of the Appeal Tribunal was upheld by the High Court.

Central to the experience of conscientious tribunalists was the anxiety that they might make wrong decisions when hearing cases. Tribunalists could only have been profoundly aware that the conclusions they came to in each case could have significant effects on the lives of many appellants and their families, whether for good, or more importantly, for ill. Regester identified the ‘new regulations and amending regulations’ that were ‘showered’ upon them as that which made the task of interpreting their responsibilities more difficult. Regester does not mention it, and it certainly was not an easy thing to assert or a wise thing to admit in a public document, but the Appeal Tribunalists must have paid an emotionally high price when reflecting on judgements that in hindsight had not been fair.⁶⁶⁹

Conclusion

Attempting to delineate the subjectivities of the Middlesex exemption process has been a case of examining explicitly stated feelings and opinions and at the same time inferring responses on the basis of a ‘common sense’ understanding of human reactions that remain the same across time and cultures. It is clear that the experience of objection, whether that of the appellant or that of the tribunalist, was a diverse set of experiences that seem for the most part to have ranged from considerable suffering to

⁶⁶⁹ TNA MH 47/5/7: Minute Book 7: Memorandum by the Chairman, 21 November 1918.

grateful satisfaction. The subjective experience of the appellant at the hands of the tribunals varied according to what sort of appellant he was and it is possible to discern a spectrum of experiences ranging from the outraged ostracism of political absolutists on the one hand and the scrupulous fairness shown towards the medically unfit on the other. The appellants' experiences were also determined by what stage they were at in the application process. Those who had to do most preparation for their hearing were those members of minority sects who not only had to convince the tribunalists of the sincerity of their pacifism, but also to educate them in the nature and content of their belief-systems and demonstrate that pacifism was the logical outcome of those beliefs. The experience of the hearing itself was determined by the personalities of the tribunalists and it appears to have been most uncomfortable for C.Os. This was the case also of the hearing's aftermath in which absolutists in particular suffered at the hands of military and civilian prisons. Those exempted to perform work of national importance had the pressure of meeting the deadline of finding suitable work and then submitting monthly reports to prove their whereabouts. Making a personal sacrifice as a way of justifying an exemption was enjoined on all able to do so. Even men in grade III for their physical condition were expected when able to find work in the national interest. However, there were some softer edges to the experience of the Middlesex system. Men who were sick and those genuinely looking for work but not finding it through no fault of their own were granted extensions of time. In a few cases, the Appeal Tribunal asked for men's call-ups to be delayed and men who had been conscripted whilst their appeals were pending were released by the Army at the Appeal Tribunal's request. From the tribunalists' point of view, it was above all exhausting and distressing, but was

ultimately a satisfying performance of duty and an opportunity to approximate to the sacrifices being made by the young at the front.

The data present an 'objective' understanding of the Middlesex experience which support the conclusions regarding the subjective experience. What proportion of all men who applied for exemption were not content with their local tribunal decision is impossible to say for the numbers of appellants is not known. However, the experience of making an appeal was frustrating according to the statistics, for nearly half were dismissed. Of those who appealed on conscience grounds, the failure rate was higher at just over 70%. Those who appealed on non-conscience grounds were most likely to receive the moderately generous three to four months' temporary exemption which struck a balance between the appellants' needs and those of the military. Those with temporary exemption had to apply again for exemption through their local tribunals without any assurance that their exemption would be extended. C.Os. were most likely to be awarded the least generous exemption, which was exemption from combatant service, making them liable to non-combatant service with the military. Only 50 men were allowed to appeal to the Central Tribunal which was an average number for English appeal tribunals. As for the Appeal Tribunalists, the statistics of the numbers of committee meetings they attended and hearings they heard reveal the ebb and flow of the workload. 1918 was the busiest year because of the increase of the upper age limit of conscription to 51 years and the flood of medical appeals.

Therefore, the fundamental experience that appellants had of the Middlesex system was one of dealing with tribunals that acted in the national interest when adjudicating

between the competing interests of the appellants, the military and local economies and food production. For non-conscience cases, it was in the national interest to give these men time to set their houses and business in order before they left, whilst it was in the national interest not to give them too much time to do this, for the Army needed them. As for cases of conscience, it was not in the national interest to send such men into the front line where they would be a liability rather than an asset. But it was not in the national interest to encourage pacifism either, and so C.Os. found themselves in non-combatant roles where hopefully their pacifism would be knocked out of them.

Chapter Four: The Middlesex Discourses of Conscientious Objection

Introduction

This chapter has an overarching aim: using provincial and local press reports, the eighty-eight surviving case papers of conscientious objectors who appealed against their local tribunal cases and the Appeal Tribunal's papers, it will elucidate the content and motifs of the Middlesex discourses of conscientious objection and identify and evaluate the similarities and differences with the discourses that characterised British wartime culture. The term 'the Middlesex discourses of conscientious objection' refers to three types of language: the language used to represent conscientious objectors within Middlesex society; the language of the tribunalists and military representatives in Middlesex; and the language with which C.Os. and their allies presented themselves to the tribunals. Collectively, Middlesex society, the tribunalists and the military representatives spoke and wrote about C.Os. in ways that for the most part mirrored the antagonistic discourse of wartime culture, which was the culmination of the language of British militarism of the late nineteenth and early twentieth century. The language of Middlesex's conscientious objectors was like that of most C.Os. nationally: overwhelmingly that of religious pacifism. The dominant form of language among the religious objectors was non-conformist Christian with a range of sects represented. Though Robbins has emphasised the diversity of reasons for why men were conscientious objectors,⁶⁷⁰ it is possible to identify underlying similarities. The underlying pattern among religious objectors' discourse was their allegiance to a deity and a moral code, which took precedence over the state's exigencies, and their view that

⁶⁷⁰ Keith Robbins, 'The British Experience of Objection', p. 696.

as humanity was a fraternity, killing others in war was not a sacred duty, but murder. Those who were members of an established religious organisation that was known to have pacifist views were most likely to persuade the Appeal Tribunal to award them some form of exemption. Interestingly, the appeal case papers of a Buddhist pacifist, Frank Balls, exist within the archive. Though an adherent of a religion that was and is in many ways very different to Christianity, Balls' language of objection bore much similarity to his Christian counterparts in that he was bound to a morality that transcended this world and which therefore laid claim to him before the principles of sacrifice demanded by the wartime state. How persuasive Balls might have been will never be known for the armistice preceded the date of his appeal hearing. There was a minority of appellants who appealed on moral and political grounds. The moralists' premise was not religious belief or the teachings of a sacred text, but a humanist one in that they too saw humanity as a fraternity, which precluded killing others. Political dissenters regarded the War as a capitalist ruse and refused to participate. These two types of objector were least persuasive, for they came up against the view that theirs was not a genuine objection. Political objectors were particularly distasteful to the conservative men of the tribunals.

The Middlesex Discourses

Before the C.O. came before any of Middlesex's tribunals, he was aware from national and provincial discourses that the great majority of people were antagonistic to his scruples. Before the War, Edwardian society had eulogised a British form of militarism

and a martial expression of masculinity.⁶⁷¹ Ilana R. Bet-El formulates this element of early twentieth century masculine culture as an equation: ‘a real man=a patriot=a volunteer=a soldier.’⁶⁷² (When conscription came along, the phrase ‘willing conscript’ could have replaced the word ‘volunteer’.) Those who determined the way in which the War was discussed deployed these discourses in support of the War. Both front benches in Parliament were pro-war. Popular writers such as Rudyard Kipling greeted the War with bellicose ballads. In 1914, the War Propaganda Bureau was established and during the course of the War produced over 1000 propaganda leaflets stirring up hatred of Germans. Northcliffe’s *The Times* and *The Daily Mail* and Beaverbrook’s *The Express* trumpeted justifications for the War and denounced the barbaric ‘Huns’. The Anglican Church and some nonconformist denominations preached that the War was a divinely ordained crusade and the soldier a Christ-like figure ready to sacrifice himself for the greater good. Peer pressure too exerted enormous pressure through white feather campaigns and the sense that everyone was in this together and so all ought to play their part.⁶⁷³ From these discourses of patriotism, sacrificial duty and Germanophobia, four types of hostile discourses emerged to dominate national speech and writing about C.Os.: C.Os. were regarded as the despised and rejected;⁶⁷⁴ unmasculine cowards and shirkers;⁶⁷⁵ deviant, decadent criminals;⁶⁷⁶ and dangerous traitors.⁶⁷⁷ The provincial and local press of Middlesex kept these discourses in circulation.

⁶⁷¹ Graham Dawson, *Soldier Heroes: British Adventure, Empire and the Imagining of Masculinities* (London: Reaktion Books, 2000); Bibbings, *Telling Tales About Men*, pp. 11-14.

⁶⁷² Ilana R. Bet-El, ‘Men and Soldiers: British Conscripits, Concepts of Masculinity and the Great War’ in Billie Melman, *Borderlines: Genders and Identities in War and Peace, 1870-1930* (New York and London: Routledge, 1998), p. 74.

⁶⁷³ Robert Skidelsky, *Britain Since 1900: A Success Story?* (London: Vintage Books 2014), pp. 157-159.

⁶⁷⁴ Bibbings, *Telling Tales About Men*, pp. 50-88.

⁶⁷⁵ *Ibid.*, pp. 89-110.

⁶⁷⁶ *Ibid.*, pp. 111-140.

Nationally, the term ‘shirker’ was used to depict the C.O. as effeminate for he was not prepared to undertake his manly responsibilities.⁶⁷⁸ The *Middlesex Chronicle* preferred synonymously to call the First Military Service Act ‘The Slackers’ Charter’, taking its cue from Sir William Joynson Hicks, the MP for Brentwood, who had coined the term.⁶⁷⁹ Joynson Hicks had been a member of the Commons Committee that had drafted the First Military Service Bill.⁶⁸⁰ During the Committee’s debate as to what legal provisions were needed to ensure a just application of the exemption clause,⁶⁸¹ Joynson Hicks sought to minimise the number of men who might be exempted because of their conscience. The *Chronicle* reported with approval that Joynson Hicks’ stance was that the ‘whole idea of exemption’ was ‘unnecessary’, but that he had suggested a limited compromise ‘to meet preconceived notions and exclude all possibility of fraud.’⁶⁸² Joynson Hicks sought to limit the exemption clause to exemption only from combatant service and to apply it only to those religious bodies that had a long historical tradition of refusing to fight, such as the Quakers. The article went on to report that Joynson Hick’s desire to limit who could seek exemption was caused by his fear that the exemption clause would become ‘the slackers’ charter’ as it would enable any man who did not wish to fight and who had ‘cold feet’ to appear before a tribunal and claim he was a C.O. In the same article, the *Middlesex Chronicle* reported approvingly Joynson Hicks’ view that C.Os. were individualistic and selfish at a time when cooperation and community were essential to the war effort’s success. According to the Brentwood MP,

⁶⁷⁷ Ibid., pp. 141-164.

⁶⁷⁸ Ibid., p. 101.

⁶⁷⁹ THE SLACKERS’ CHARTER’, *Middlesex Chronicle* (Saturday 22 January 1916), p. 5.

⁶⁸⁰ Draft Bill 297-8, 3 January 1916, 2 (I) (d).

⁶⁸¹ Rae, *Conscience and Politics*, p. 27.

⁶⁸² ‘THE SLACKERS’ CHARTER’, *Middlesex Chronicle* (Saturday 22 January 1916), p. 5.

the exemption clause allowed ‘the Conscientious Objector to set the right of private judgment against the needs of the State’ when ‘effective government’ could only be maintained when ‘the State... has the right to make the supreme demand upon every man, whatever his conscientious objections may be.’ What particularly angered Joynson Hicks were political objectors. Joynson Hicks pointed out that those Socialists who exalted the rights of the state over that of the individual were now refusing to submit their individual rights and obey the call up. For his vocal criticism of the Government’s so-called pandering to pacifists, the *Chronicle* regarded Joynson Hicks a folk hero.⁶⁸³

The word ‘shirker’ does appear in the Appeal Tribunal archive, but it is a word that comes from the pen of a correspondent rather than from the lips of the tribunalists. One of Herbert Nield’s constituents, E. J. Turner, wrote to him to complain that one of his neighbours, a single man with no dependents called Victor Brown, ‘like many more of the shirkers’, had avoided conscription by going to live and ‘work in munitions’ at Enfield. Turner concluded his letter with the suggestion that Nield ought to make enquiries through the local recruiting office.⁶⁸⁴ No reply from Nield exists in the archive. Nield’s practice as shall be seen in chapter five was not to reply personally to correspondence on matters relating to tribunal work or conscription, and it was certainly not his responsibility to track down alleged shirkers. However, Nield personally had no time for such evasive behaviour.

⁶⁸³ Far from having a free hand, Asquith had face the threat of resignation from leading cabinet members over conscription’s introduction and one indeed did resign-Sir John Simon. The decision to include an exemption clause in the Service Bill was partly motivated by the need to sustain the loyalties of those Liberal MPs opposed to conscription. See Rae, *Conscience and Politics*, pp. 25-26.

⁶⁸⁴ TNA MH 47/121/4: Letter from E. J. Turner to Herbert Nield, 27 April 1916.

In national discourses, C.Os. were described as criminals even though the Military Service Acts defined conscientious objection as a ‘legal category’.⁶⁸⁵ The commentator Henry Wood Nevinson, who was sympathetic towards C.Os., concluded that they were deemed guilty of ‘an unpatriotic offence’.⁶⁸⁶ The No-Conscription Fellowship was particularly unpopular for encouraging and equipping young men to resist compulsion.⁶⁸⁷ *John Bull* demanded in April 1916 the arrest and execution at the Tower of London of Fenner Brockway, the founder and Secretary of the No-Conscription Fellowship.⁶⁸⁸ When C.Os. and their supporters actually transgressed the law, hostile newspapers readily published the details.⁶⁸⁹ On one occasion, the *Middlesex Chronicle* was able to depict contempt of court on the part of a C.O.’s supporter. On 28 April 1916, the *Chronicle* reported that a conscientious objector appeared before the Brentford Police Court for failing to report to the Army under the Military Service Act. The C.O. was described as a twenty-one year bank clerk and the proceedings as ‘a very disorderly scene.’ Whilst Colonel. C. W. Carr-Calthrop, the recruiting officer, was giving evidence, a friend or associate of the accused, a young man described as wearing spectacles, shouted, “liar” and “these things are not true”. He ignored the request to behave properly and was ejected by the police. He returned to the court and continued to shout ““liars”” as loudly as he could and was ejected for a second time. The outcome of the case was that the C.O. was fined 40 shillings and conveyed to Hounslow Barracks. A request by an unidentified elderly man present at the hearing for the C.O. to be

⁶⁸⁵ Bibbings, *Telling Tales About Men*, p. 118.

⁶⁸⁶ Henry Wood Nevinson, ‘The Conscious Objector’, *Atlantic Monthly*, 103:695 (November 1916), pp, 686-94, 690.

⁶⁸⁷ Thomas Kennedy, ‘Public Opinion and the Conscientious Objector’, *The Journal of British Studies*, 12:2 (1973), p. 106.

⁶⁸⁸ Fenner Brockway, *Inside the Left: Thirty Years of Platform, Press, Prison and Parliament* (London: Allen and Unwin, 1942), p. 69.

⁶⁸⁹ See e.g., ‘AN OBJECTOR’S FAMILY, FATHER FINED FOR HIDING HIS SON’, *The Times*, (31 October 1916), p. 5.

permitted to say goodbye to his friends was refused.⁶⁹⁰ Such reporting served to reinforce the popular view, whether consciously or not, that C.Os. and their allies were intolerable ‘neurotic curiosities’.⁶⁹¹

Within national discourses, C.Os. were presented as lacking common sense and as out of touch with realities.⁶⁹² Such representations of C.Os. did not apply to their leaders who were not short of intellectual pedigree. Bertrand Russell, E. M. Forster⁶⁹³ and many of the Bloomsbury Group⁶⁹⁴ were leading conscientious objectors, but of course not all C.Os. were sophisticates and some struggled to present their case lucidly. The *Middlesex Chronicle* portrayed all conscientious objection as an intellectually redundant position. In its discussion of the work of the tribunals, the *Middlesex Chronicle* described the work as ‘no easy one’, which was putting the ‘discriminating powers of local public men...to such a severe test’. Though according to the *Chronicle* the tribunals across the country were working conscientiously, what made the work of balancing the Army’s need of men with the applications for exemption on substantial economic and domestic grounds was the ‘amazing revelations’ of many people’s inability to understand the importance of the War to both the nation and the individual. The inability to understand reality according to the newspaper was most prominent among conscientious objectors whose reasons for exemption the article dismisses without explanation or substantiation as ‘excuses’, ‘flabby sentimentalism’ and as

⁶⁹⁰ ‘A Scene in Court’, *Middlesex Chronicle* (29 April 1916), p. 8.

⁶⁹¹ Kennedy, ‘Public Opinion and the Conscientious Objector’, p. 110.

⁶⁹² *Ibid.*, p. 111.

⁶⁹³ Rae, *Conscience and Politics*, p. 70.

⁶⁹⁴ *Ibid.*, p. 81.

‘illogical’.⁶⁹⁵ The *Chronicle* quoted Joynson Hicks in support of its denigration of the cogency of conscientious objection. During the parliamentary committee’s discussion of the First Military Service Bill, Joynson Hicks had observed that there was a logical contradiction between the C.O.’s. objection to fighting because it was a sin and paying his taxes, which enabled other men to fight. He asked why the C.O. did not take his position to its logical conclusion and refuse to pay his taxes and shelter behind the protective arm of the armed forces.⁶⁹⁶

It is clear that one of the aims of national discourse was to create a binary opposition between the C.O. and the man who had answered the call-up with the aim of shaming the first and eulogising the latter. Whereas the C.O. was presented as a self-preserving, cowardly weakling, the soldier was raised in the popular imagination to the level of a ‘Christian warrior’,⁶⁹⁷ whose moral code consisted of doing his duty, being devout and prepared to sacrifice himself for the national good.⁶⁹⁸ Though the *Middlesex Chronicle* did not use the noun phrase ‘Christian warrior’, it deployed the phrase ‘citizen warriors’ when writing about men who were serving in the armed forces. It was the opinion of the *Chronicle* that to reward ‘our millions of citizen warriors’, there ought to be an extension of the franchise through the creation of a war electoral register in which ‘adequate representation’ would be given to all soldiers.⁶⁹⁹ Though the article did not refer to conscientious objectors, if the qualification for citizenship was having served with the military, the C.O. was therefore excluded from citizenship and disenfranchised

⁶⁹⁵ ‘CURRENT TOPICS’, *Middlesex Chronicle* (4 March 1916), p. 5.

⁶⁹⁶ ‘“THE SLACKERS’ CHARTER’’, *Middlesex Chronicle* (22 January 1916), p. 5.

⁶⁹⁷ Geoffrey Best, ‘Militarism and the Victorian Public School’ in Brian Simon and Ian Bradley (eds.), *The Victoria Public School: Studies in the Development of an Institution*, p. 138.

⁶⁹⁸ *Ibid.*, p. 144.

⁶⁹⁹ ‘The Best-laid Plan of Mice and Men’, *The Middlesex Chronicle* (22 July 1916), p. 5.

for he had neglected his duty to defend the state. The unwritten, but logical conclusion of the article was that the C.O. belonged to the category of the ‘other’ or the outsider which was a motif within the discourses about C.Os. A wartime poster said it very well. It read: ‘There are three types of men. Those who hear the call and obey. Those who delay and-the Others.’ It finished with the question, ‘to which do you belong?’⁷⁰⁰ C.Os. were frequently belittled and ridiculed in national media discourse through cartoons. One typical example of this is the cartoon of a C.O. entitled ‘THE CONSCIENTIOUS OBJECTOR AT THE FRONT’. It was published in *John Bull* and depicted the C.O. as a hopeless weakling threatening to smack the wrist of a corpulent, bayonet wielding German.⁷⁰¹ Other methods were used to lampoon C.Os. One art form which has not received attention in the most important studies of anti-C.O. discourses is satirical verse.⁷⁰² Gregory draws our attention to Charles Murray’s satirical ballad, ‘Dockens Before His Peers’, but it ridiculed corrupt farmers who manipulated and bullied local tribunals into exempting their sons.⁷⁰³ Such mockery of farmers, unlike that of C.Os., died down as the importance of an adequate food supply became more urgent as the U-boat blockade tightened.⁷⁰⁴

⁷⁰⁰ Imperial War Museum, London, and reproduced in Ilana R. Bet-El, *Conscripts: Forgotten Men of the Great War* (Stroud, Gloucestershire: the History Press, 2009), chapter 5.

⁷⁰¹ *John Bull*, (4 May 1918), p. 5.

⁷⁰² Bibbings presents how poetry was used to communicate the view that the War was holy, but not how it was used to mock C.Os. See Bibbings, *Telling Tales*, p. 58.

⁷⁰³ Adrian Gregory, *The Last Great War*, pp.121-122.

⁷⁰⁴ *Ibid.*, p. 122. Gregory is of the opinion that farmers avoided much abuse for their privileged position as much of the rancour towards those who avoided military duty was heaped upon luckless conscientious objectors, and that it was in the Government’s interests that this should happen to divert attention from the greater problem of agriculture’s labour needs and the fact that the Government were indeed shielding farmers.

A poem called ‘OBJECTIONS CONSCIENTIOUS’ by the pseudonymous ‘A. H. A.’ appeared in the *Middlesex Chronicle* on 5 February 1916.⁷⁰⁵ The poem is a microcosm of the four types of national discourse used to talk about C.Os. identified by Bibbings. In this poem, the C.O. is presented as despicable, cowardly, deviant and a national danger. The positioning of the poem is as important as its structure and content. To attempt to highlight the shamefulness of the conscientious objector’s position, the poem was placed between two articles, one which eulogised local men who were serving with the armed forces as ‘OUR LOCAL WARRIORS’⁷⁰⁶ and one which described an evening of song by soldiers and civilians organised at the theatre of the Royal Fusiliers’ Barracks.⁷⁰⁷ The delicacy of the poem’s title, where the adjective is placed fastidiously after the noun, contrasted sharply with the theme of manly camaraderie that characterised the two articles. Men such as Lieutenant E. W. Bennett of the Motor Machine Gun Service who had been awarded a Military Cross for bravery on the recommendation of Sir John French no less and Lieutenant S. L. Slocock, who was an army veterinarian and who had been promoted to captain, were contrasted with Slinky Slacker, the narrator of ‘Objections Conscientious’, who encourages others to fight for him whilst ironically lamenting his inability to fight because of his scruples.

The poem read as follows:

‘Objections Conscientious’

Fight on, brave comrades, and do your bit,
Aye, and do a bit, a lot, for me;
For although I’m young and strong and fit,

⁷⁰⁵ ‘OBJECTIONS CONSCIENTIOUS’ by A. H. A., *Middlesex Chronicle* (5 February 1916) p.7.

⁷⁰⁶ ‘OUR LOCAL WARRIORS’, *Middlesex Chronicle* (5 February 1916) p.7.

⁷⁰⁷ ‘HAPPY EVENINGS FOR OUR SOLDIERS’, *Middlesex Chronicle* (5 February 1916) p.7.

I must not fight because you see
I've objections conscientious.

The Huns are ferocious, vicious foes,
Go, then, slash' em hip and thigh.
There's priceless comfort when one knows,
That you are never hindered by
Objections conscientious.

Fight on, good chums, all costs defend,
Our mothers and our sisters;
For on you, of course, they must depend,
Not on peaceful non-resisters
With objections conscientious.

Ah! How wise of nature to provide,
Some men with conscience-some without;
Even aims and tastes diversified,
You're built to fight; I'm raised devout
With objections conscientious.

When you're in battle, pray think of me,
Left in England and sore distressed;
Yearning to help, if only free,
But cabined, thwarted and oppressed
With objections conscientious.

It will solace you to bear in mind,
When in slush and blood you're swimmin',
That I'm cheering those you left behind,
The children and the women
With objections conscientious.

Buck-up and conquer, sons of Mars,
And get back soon; then you and I
Will talk and count your wounds and scars,
You'll love to chat concerning
My objections conscientious.

The name of the narrator is worthy of note. 'Slinky' connotes an effete deviant who by his seductive words is able to wriggle out of his patriotic obligations and therefore is a danger to national morale. The sibilance of the letter 's' and the alliteration of the 'sl' suggest also a smooth talker, but also a lisp which is symptomatic of how C.Os. were

viewed as despicable and unmanly.⁷⁰⁸ The poem scandalises the reader by depicting the narrator as having the audacity to address soldiers directly and expecting them to be fooled by his easy eloquence. Though he is ‘young and strong and fit’, he has the effrontery to encourage combatants to do their ‘bit’ by urging them to ‘slash...hip and thigh’ the ‘ferocious’ and ‘vicious’ ‘Hun’. The C.O. is also deficient in maleness, relying on others to defend ‘our mothers and sisters’. His cunning appears in stanza five where the narrator assures his audience that he is ‘sore distressed/yearning to help’ and yet prevented from doing so by his ‘objections conscientious’. Though fully aware of the conditions of the battlefield, which he describes as ‘slush and blood’, the narrator assures his audience he is cheering them on, but only safely from a distance, and naively, or callously, promises the soldiers that when they return, they and he can talk about their ‘scars’ and his ‘objections conscientious’ as if they were of equal value. The approximation of the lines to regular iambic and dactylic rhythms and the self-satisfied refrain of ‘objections conscientious’ were calculated by the writer to infuriate the reader for these structural forms give the narrative voice a supercilious tone. The overall message is that the conscientious objector is a coward who hides behind his false principles and assumes that no one can see through his con artistry. He is also a parasite freeloading on the work and sacrifice of others, including women, a motif of shame that was embedded in national discourse.⁷⁰⁹ The intent was to cultivate bitterness towards the C.O.

The Discourse of the Middlesex Appeal Tribunalists

⁷⁰⁸ Bibbings, *Telling Tales About Men*, pp. 95-103.

⁷⁰⁹ Ibid., p.101.

The Central Tribunal did not hear appeal cases in person, but had produced a series of questions that all tribunals might use when faced with conscientious objectors and which Walter Long disseminated in June 1916 approvingly.⁷¹⁰ The Central Tribunals' questions became the standard list of questions which conscientious objectors were required to respond to in writing by Middlesex's local tribunals. The questions featured on Form R.87 and were titled 'Application on the Ground of Conscientious Objection'. The appellant's responses to these questions accompanied his case papers if he appealed against the local tribunal's judgement. The questions were as follows:

- '1. State precisely on what grounds you base your objections to combatant service.
2. If you object, also to non-combatant service, state precisely your reasons.
3. Do you object to participating in the use of arms in any dispute, whatever the circumstances and however just, in your opinion, the cause?
4. Would you be willing to join some branch of military service engaged not in the destruction but in the saving of life? If not, state precisely your reasons.
5. (a) How long have you held the conscientious objections expressed above?
(b) What evidence can you produce in support of your statement? Please forward written evidence (from persons of standing if possible), which should be quite definite as to the nature and sincerity of your conscientious objection.
6. (a) Are you a member of a religious body, and if so, what body?
(b) Is it one of the tenets of this body that no member must engage in any military service whatsoever?
(c) Does the body penalise in any way a member who does engage in military service; if so, in what way?
(d) When did you become a member of that body?
7. (a) Are you a member of any other body one of whose principles is objection to all forms of evidence, and if so, what body?
(b) When did you become a member?
8. Can you state any sacrifice which you have made at any time because of the conscientious objections which you now put forward?
9. (a) Assuming that your conscientious objections were established, would you be willing to undertake some form of national service (other than your present work) at this time of national need?
(b) What particular kinds of national service would you be willing to undertake (state all different kinds)?
(c) Have you, since the war broke out, been engaged in any form of philanthropic or other work for the good of the community? If so, give particulars.

⁷¹⁰ Rae, *Conscience and Politics*, p. 104.

(d) What sacrifice are you prepared to make to show your willingness, without violating your conscience, to help your country at the present time?

10 (a) If you are not willing to undertake any kind of work of national importance as a condition of being exempted from military service, state precisely your reasons; and also

(b) How you reconcile your enjoying the privileges of British citizenship with this refusal?’

These ten questions are worth looking at more closely for they exemplify the three aims tribunals had when dealing with C.Os.: to understand the exact nature of the objection; to discern between those who were genuine in their objections and those who were feigning them; and give absolutists a chance to reconsider their view. Questions 1 to 4 required the C.O. to define his position so that the tribunal knew what sort of objector he was. Questions 5, 6, 7 and 8 aimed at determining the sincerity of the objection: if an appellant could provide evidence that he had had pacifist convictions before the War started, was a member of a pacifist organisation and had sacrificed for his beliefs, he was likely to be sincere. Question 9 was designed not only to find out what the C.O. was prepared to do other than obey the military, but also to remind him that this was a ‘time of national need’ and that he ought to be prepared to do something. Question 10 was designed for the absolutist. Part a gave him room to give reasons for his position, but part b made it clear to him that his position was selfishly individualistic.

The Middlesex Appeal Tribunal produced its own list of questions which reveal the attitudes of the Tribunalists to conscientious objection:

- ‘1. Did you ever express a conscientious objection to fighting before the War?
2. If you are a Quaker, when did you become a Quaker?
3. Would you fight to save your property or your womenfolk at home from attack?
4. Do you consider that this Country was wrong in opposing Germany’s onslaught against the peace of Europe?
5. If so, what do you think would be the result if we had remained neutral?

6. Do you agree that the existence and independence of the State is essential to our individual liberties?
7. If so, how can this existence and independence of the State be preserved if the citizens of the State refuse to help the State?
8. Do you deny that if this existence and independence of the State be preserved after the War, it will be due to the sacrifices of those who have fought for their country?
9. Do you intend to remain a citizen of this country after the War?
10. If so, is it compatible with your conscience to enjoy after the War the benefits which the sacrifices of others have provided for you?⁷¹¹

The questions have an order to them which suggests that they were supposed to be used chronologically during questioning. The first three questions focus on the personal and domestic with the subsequent questions becoming more complex and abstract. The last two questions turned the C.O.'s. attention to what sort of future he envisaged for himself when the War was over. Though questions 1 to 3 inclusive could have been asked of any kind of C.O., the following seven questions appear to have been designed with the absolutist in mind. The first two questions seem designed to weed out those who were recent, convenient converts to pacifism rather than long-term adherents. If an appellant was able to demonstrate pacifist beliefs preceding the War, or specifically that he had been a Quaker before the War, it is likely that he would have been granted some form of exemption. If the appellant was a recent convert to the pacifist cause, or could not prove that he was not, he would have been subjected to the following eight questions which were designed to expose any ignorance and inconsistencies in his position which among tribunals generally were taken as evidence of insincerity.⁷¹² These questions were premised upon the mainstream values of wartime British society. They seem designed not only to catch the C.O. out, but also to remonstrate with him and argue him out of his position through the power of argument and emotional blackmail. They have as much a

⁷¹¹ TNA MH 47/144/3: 'Conscientious Objections'.

⁷¹² Rae, *Conscience and Politics*, p. 105.

rheterical and perlocutionary effect as an investigative purpose. Question three struck at the heart of the C.O's. masculine identity and was designed to expose the inconsistency between a man's refusal to defend his nation and his preparedness to defend his female relatives. It is loaded with bourgeois and chivalric assumptions about the sanctity of property and womanhood. (It is important to note the patriarchal ordering of the question in which property precedes womenfolk in the order of nouns!) By asking this question, the Appeal Tribunal was appealing to the C.O's. sense of manhood with the implication that if his answer was not affirmative that he lacked manliness. Questions four to eight inclusive are concerned with strategy and political philosophy, which for the majority of conscientious objectors with a modest or poor education would have been intimidating. Question four assumed that Germany was the aggressor and that the War was justified because it was a defensive conflict. If the C.O. failed to see the assumption in the question, he was in danger of being cornered into refusing to aid his country's defence. If he argued that Britain ought to have remained neutral, question four challenged him to think what the ramifications of neutrality might be, something that he might not have considered. Questions six and seven expressed a contractual political philosophy in which the state was the guarantor of citizens' liberties and yet was dependent upon the decision of each citizen to protect it. The implication of this line of questioning was that the conscientious objector who enjoyed state-guaranteed freedoms was now under the obligation to defend that state from foreign assault. Question eight described death in the defence of the nation as a 'sacrifice' and therefore something sacred and glorious. The question implied that those who refused to make such a sacrifice or something comparable were not fit to live within the state that had been preserved by these sacrifices. If such logic was missed by the C.O., question nine

implied that the C.O. had no right to his citizenship after the War. Question ten cast the C.O. as having no conscience if he chose to enjoy the benefits of a society which had been defended without his contribution. In the minds of the Appeal Tribunalists, the absolutist was just as the John Bull cartoon of May 1918 described him: he was ‘this little pig’ who ‘stayed at home’.⁷¹³

During hearings, the tone and lexical content of the dialogue between the Appeal Tribunalists was determined by the type of conscientious objector the Tribunal was dealing with. According to E. C. Fawley, who at the time of reporting had observed 2000 hearings at the Appeal Tribunal, those C.Os. who were prepared to do non-combatant work posed no problem to the Tribunal for the Pelham Committee provided for them well. The hearings of absolutists, however, quickly turned sour once it became clear that they were not prepared to submit to the Pelham Committee and saw no difference between that and taking military orders.

At first, the Appeal Tribunal attempted to negotiate with absolutists. In response to their refusal to do anything for the war effort, the Appeal Tribunal asked ‘persuasively, coaxingly’ what they were prepared to do. Fawley quotes three such plaintive suggestions: “‘Won’t you help the sick?’”; “‘Won’t you go to the railway stations and pilot wounded soldiers home?’”; and “‘Will you go into the RAMC?’” When the absolutists refused all such suggestions, the tone according to Fawley changed to one of guilt-inducing reproach with the use of a rhetorical question and an asyndetic list of helpless females and dependents: “‘Why if you will do nothing, not even for your sick

⁷¹³ The illustration has the heading ‘AN “OBJECT” LESSON’, Frank Holland, *John Bull* (4 May 1918), p. 5.

and wounded neighbour, perhaps your brother, should we try to find a way to enable you to live in comfort, peace, and perhaps luxury when others are dying-dying like flies-to protect your mother, your wife, your sister, or your children.” If that moved not the absolutists, Nield was reported as caustically concluding that ‘there was one place and one place only for them and that was the far-away island where the Socialist colony was inaugurated and came to grief.’⁷¹⁴

The Quaker publication, *The Friend*, provides three examples of how absolutists were addressed by the Appeal Tribunalists. The first instance demonstrates that in the eyes of the Tribunalists the absolutist was a traitor; in the second and third case, that he was a shirker. The first report regards a non-Quaker, George Davies. Davies was a Christian and the Assistant Secretary of the Fellowship of Reconciliation. The Finchley Local Tribunal had actually granted Davies absolute exemption and the Military Representative at Finchley had appealed against this on the ground that Davies had been a member of the territorial forces. During the Appeal Tribunal hearing, Davies was questioned about what the Fellowship of Reconciliation was, when he had left the territorial force and whether his pacifist views were formed prior or contemporaneously to the War. When Davies declared that his pacifist views were formed ‘slightly before the War’, the Chairman’s response was, ‘Do you realise that if everyone had taken your view, the Germans would have overrun this country?’ The conclusion of the Chairman and the Military Representative was that Davies’ views were ‘harmful’ and gave him

⁷¹⁴ ‘OUR COUNTY APPEAL TRIBUNAL’, *Sentinel* (28 July 1916), p. 1.

exemption conditional on service of national importance, though he was given the rare permission to appeal to the Central Tribunal.⁷¹⁵

The second case concerned Stanley V. Keeling who was a Quaker. He was asked a standard array of questions such as whether his conscientious objection had existed before the War, whether he was engaged and what his age was. When Keeling suggested to the Tribunal that his work of national importance could take the form of working on a farm colony in Berkshire helping reformatory and workhouse boys make a fresh start with their lives, the response of the Chairman, which was noted by *The Friend* as being flippant, was: ‘Yes, the work may be alright, but we want men in the Army now!’⁷¹⁶

The third case was that of Charles S. Ross, a bookbinder from East Ham. He was asked by the Chairman whether he claimed to be a Quaker and Ross replied that he was attending meetings, but was not a member. The Military Representative asked whether ‘as a citizen of the Empire’, did he not have ‘a duty to fight?’ Ross declared that he did not believe in war, and at that his case was dismissed.⁷¹⁷

The word sacrifice played an important part in national discourse for unless people were prepared to make sacrifices for the war effort, the War could not be won. Young men were the main targets of this discourse. It was the policy of the War Office and the Parliamentary Recruiting Committee to bombard young men with persuasive arguments

⁷¹⁵ *The Friend*, (12 May 1916), p. 339.

⁷¹⁶ *The Friend* (19 May 1916), p. 359-60.

⁷¹⁷ *Ibid.*, p. 362.

encouraging them to be prepared to make the ultimate sacrifice.⁷¹⁸ The tribunals felt the moral obligation of challenging conscientious objectors to make an equal sacrifice to those at the front.⁷¹⁹ The Central Tribunal's questions for C.Os. reveal that they wished to know what sacrifice a C.O. was prepared to make if he was an absolutist. The Appeal Tribunal's questions for C.Os. made it clear that the sacrifices of those at the front would guarantee the continued existence and independence of the state on which both C.O. and combatant depended. The importance of sacrifice, or to be more precise, self-sacrifice in the doing of one's duty was an integral part of pre-War and wartime mainstream discourse.

The concept played an important part in the Appeal Tribunal's discourse with C.Os. too. At an appeal hearing in August 1916, the question of sacrifice arose in the case of a teacher who was a conscientious objector. According to the local reporter who reported the question and answer exchange, the Chairman asked, "Do you feel prepared to make any sacrifice?", a question that sought to give the appellant the chance to do the honourable thing and do his duty. Though the report does not give the man's response, presumably he refused to make a sacrifice for the second part of the Chairman's line of questioning reminded the conscientious objector of his obligation to his country: "You know you have been educated at the cost of the country?"⁷²⁰

The Chairman in his discussion with a Quaker called Alexander Sim explicitly used the word sacrifice. The Chairman was adjudicating his case because his local tribunal had

⁷¹⁸ Cate Haste, *Keep the Home Fires Burning: Propaganda in the First World War* (London: Allen Lane, 1977), p. 77.

⁷¹⁹ Keith Robbins, 'The British Experience of Objection', p. 693.

⁷²⁰ TNA MH 47/121/8: 'Enfield Town Tribunal News', *The Enfield* (August 1916).

reached a deadlock over its decision: though the local tribunalists were unanimously convinced that Sim was a genuine conscientious objector, two tribunalists wished to allow him to remain in his present position working for the Alliance of Honour, whereas three did not, presumably because they did not consider his work of national benefit.⁷²¹ The case came before the Appeal Tribunal on 3 July 1916. The Appeal Tribunal sided with the three tribunalists and decided on exemption from combative duties on condition that Sims took up work of national importance approved by the Pelham Committee. The Chairman reinforced the decision by telling Sim that he ‘must make some sacrifice which... involves leaving your home.’⁷²² Like the men at the front separated from home, Sim was required to make an approximate sacrifice.

If C.Os. were expected to compensate the state for their refusal to fight by making a sacrifice, the men who constituted the Appeal Tribunal understood their personal obligation to make sacrifices too and they concluded that their work as Tribunalists was a sacrifice. We have already seen in chapter three how Regester’s concluding ‘Memorandum by the Chairman’, which summed up the experiences of the Appeal Tribunalists at the end of the War, presented their experiences as those of duty and sacrifice. As this present chapter concerns discourse, it is relevant to identify more closely what Regester and his co-Tribunalists understood specifically by those words. Regester asserted that their performance of duty and their sacrifice were the consequence of ‘their devotion to the Country’. Meeting their obligations and enduring the challenges of tribunal work were motivated by patriotism. More specifically, Regester referred to the way in which the Tribunalists, ‘at great personal sacrifice and

⁷²¹ *The Friend* (18 August 1916), p. 651

⁷²² *Ibid.*

without fee or reward attended the sittings of the Tribunal week after week for nearly 3 years.' Though no individual Tribunalist had attended every hearing and committee meeting and though the Tribunal had agreed to take holidays at Christmas and during summer, it was certainly the case that collectively the Appeal Tribunal had worked almost continuously for three years and despite the fact that all the Tribunalists were occupied politically and civically. Now that the War was over, Regester may have permitted himself an ironic joke at the expense of C.Os., for he asserted that the Tribunalists had been motivated by their 'conscience' to do the right thing by ensuring that they understood the legislative intricacies of conscription and exemption. But this was most likely more serious than an ironic observation, for it reveals that in the minds of these Tribunalists, the sense of obligation to do the right thing was not the monopoly of those who identified as C.Os. Attempts by C.Os. to occupy, or appear to occupy, the moral high ground could only rankle those whose moral understanding of the right behaviour during wartime was that of participation. There too was the conviction that the right thing to do was to participate as much as one could in the war effort, and tribunal work for these mature gentlemen beyond the age of conscription was their contribution.⁷²³

The Discourse of the Local Tribunals

A number of conscientious objector hearings at Middlesex's local tribunals were reported in varying detail by the local and provincial press. It is not possible to conclude that C.O. cases handled at local level were all treated with hostility and disdain based on a small collection of newspaper reports and case papers. Newspapers publish the

⁷²³ TNA MH 47/5/7: Minute Book 7, 'Memorandum by the Chairman', 21 November 1918.

sensational and what the appellant claimed on his Notice of Appeal as to how he had been treated by the local tribunal was his impression which might or might not have been true. However, what can be asserted is that some of the local tribunals' discourse could be sceptical, condescending and pugnacious when cross-examining C.Os., which was not the careful and thoughtful approach that Long expected of his tribunalists.

The local tribunals had the conscientious objectors' reasons for their objection which they had provided in response to the questions on form R.87, yet the appellant was still required to provide answers to questions face-to-face so that from that interaction, a man's sincerity could be gauged. There was a typology to the questions the local tribunalists posed in addition to the questions on form R.87. The first type of question was a crude attempt at causing the C.O. to change his mind, either by asking him whether he would change his mind, or by insinuating that he was a coward and shaming him into retracting his position. On the evening of 17 March 1916, Greville-Smith, the Chairman of the Heston-Isleworth Local Tribunal asked a Baptist sign writer from Hounslow who was seeking absolute exemption whether he was 'contemplating changing his mind'. The appellant stated that he was considering becoming a Quaker because so many of his fellow Baptists were obeying their call-up, which disgusted him. Irritated by the C.O's. tenacious beliefs, Greville-Smith growled: 'And they are probably disgusted with you.'⁷²⁴

An insinuation of cowardice appeared at another hearing conducted by the Tribunal at Heston-Isleworth. A bank clerk living in Hounslow was a member of the International

⁷²⁴ 'LOCAL SERVICE TRIBUNAL: LAST OF THE CONSCIENTIOUS OBJECTORS', *Middlesex Chronicle* (18 March 1916), p. 5.

Bible Students' Association and in common with his fellow members was an absolutist. The first question he was asked was whether he had 'a conscientious objection to being killed' which implied it was his cowardice rather than scruples of conscience which was the cause of his objection. As a means of re-focusing the hearing on his beliefs, the C.O. replied that he had 'a conscientious objection against killing and helping to kill people' and that his reasons were derived from the Bible.⁷²⁵

One type of question tested what Rae has termed 'consistency of behaviour'. This type of question was premised on the illogical presupposition that 'inconsistency was synonymous with insincerity'.⁷²⁶ The Baptist C.O. from Hounslow whom Greville Smith had asked whether he would change his mind was also challenged over inconsistencies in his behaviour. Mr Heldmann, another member of the Heston-Isleworth Local Tribunal, asked how the appellant could seek absolute exemption though he had worked for the military as an apprentice and continued to pay his taxes to a state engaged in war.⁷²⁷ This line of questioning was pursued by R. R. Robbins, the Chairman of the Staines Rural District Military Tribunal in the case of a C.O. who claimed absolute exemption because of his Christian faith. As the appellant was by trade a clerk to marine insurance brokers, Robbins wished to know whether the appellant considered his work for a marine insurance company to be a form of war work. The C.O. denied that his work had much to do with the Government. When challenged over the way the War had made him busy, the C.O. argued that he was not making his application on the grounds of business. When the Chairman pressed the

⁷²⁵ 'SERVICE TRIBUNAL CASES: CONSCIENCE LOGIC', *Middlesex Chronicle* (4 March 1916), p.6.

⁷²⁶ Rae, *Conscience and Politics*, p. 105.

⁷²⁷ 'LOCAL SERVICE TRIBUNAL: LAST OF THE CONSCIENTIOUS OBJECTORS', *Middlesex Chronicle* (18 March 1916), p. 5.

point that the C.O. would have performed work for the Royal Navy and that his work was part of the war effort, the C.O. could make no other answer than that he was making his living, but apart from that, he was a Christian who opposed the taking of life.⁷²⁸

Rae has identified another type of question: those that involved both sides quoting ‘text and counter-text’ from the Bible.⁷²⁹ Though none of the newspaper reports features such an exchange, Robbins of the Staines Tribunal did quote Scripture in the aforementioned case. Robbins wished to know if the appellant’s Christian beliefs prevented him from saving life. The C.O. repeated his view that his Christian views prevented him from undertaking any form of war work. Robbins proceeded to ask whether the appellant would consider Christ’s restoration of the High Priest’s servant’s ear after it had been severed by Peter’s sword to be a form of Red Cross work. The appellant was clearly struggling with this line of question because he was reported as saying, ”I know all about that, but I cannot answer such questions; I am not called upon to so.” Though the appellant was less than convincing in his response, the Tribunal judged him to be sincere in his objection, but his failure to argue consistently that his beliefs prevented him from helping the wounded probably was the cause of his being awarded exemption from combatant service only.

The appeal case papers also provide examples of tribunalists refusing to accept the legitimacy of a conscientious objection because of apparent discrepant behaviour. In the case of John Davies, the Willesden Local Tribunal dismissed his application on the

⁷²⁸ ‘Rural District Tribunal: First Conscientious Objector’, *Middlesex Chronicle* (11 March 1916), p. 8.

⁷²⁹ Rae, *Conscience and Politics*, p. 105.

basis of what they perceived to be an inconsistency in his position. According to the Chairman's notes on John Davies' hearing, the Tribunal was only prepared to grant exemption from combatant service, which Davies 'promptly rejected'. What puzzled the Chairman was Davies' assertion that that 'he would not even give any assistance to the wounded.' As Davies was a religious C.O., his refusal to help the wounded appeared to the Willesden Tribunalists to be 'entirely contrary to the generally accepted Christian outlook'.⁷³⁰

Rae describes 'hypothetical questions some of which have passed into the folk-lore of the period.'⁷³¹ These questions aimed at demonstrating the impracticality of and the contradictions in conscientious beliefs. The member of the International Bible Students' Association who had essentially been tarred a coward at the Heston-Isleworth Local Tribunal was tested by a Tribunalist called A. A. Bergin who was determined to show how the appellant's beliefs would not stand up in certain circumstances. Bergin asked the man what he would do in the event of a German invasion. The applicant said that the Bible stated that Christians must not kill and when faced with the temptation to do so, would resist the temptation, as 'the Lord would not tempt a man more than he was able to bear.' Greville-Smith posed the now infamous hypothetical question: 'If the Germans were about to kill your mother, would you allow them so?' The applicant affirmed he would; when asked would he allow them to kill him, he affirmed this also.⁷³²

⁷³⁰ TNA MH 47/67/32: John Davies M1547: R.43 'Notice of Appeal', 9 August 1916.

⁷³¹ Rae, *Conscience and Politics*, p. 105.

⁷³² 'SERVICE TRIBUNAL CASES: CONSCIENCE LOGIC', *Middlesex Chronicle* (4 March 1916), p. 6.

The Heston-Isleworth Local Tribunal also provides an excellent example of how religious objectors could be subjected to questions of a theological nature in order to identify illogical belief. Heldmann challenged the C.O. about his understanding of divine attributes in a way that was more appropriate for a theology tutorial. The dialogue proceeded with Heldmann asking the appellant if he believed in the omnipotence of God. When the appellant affirmed that God was all powerful, Heldmann asked whether God was able to have prevented the War. The appellant agreed and opined that God had allowed the War ““for reasons He knows.”” At this, Heldmann sprung his trap by demanding to know why, if the appellant believed that God had permitted the War, would he not participate in it?⁷³³

The article did not give the appellant’s reply, probably (and understandably) because the question of divine sovereignty was beyond his understanding. However, though the tribunal found the C.O’s. answers unsatisfactory, it did not prevent them from giving him some kind of exemption. Greville-Smith proposed, and it was agreed, that the appellant be exempt from combat service only and that he be recommended to join the Non-Combatant Corps. The appellant declared he would appeal the decision.⁷³⁴

Though most local tribunals had a mere few minutes to make their decision in each case due to their significant workload,⁷³⁵ the general lack of time for each case did not wholly obviate lengthy examinations of conscientious objectors’ positions. Long, intense questioning of conscientious objectors’ reasoning was part of the Middlesex

⁷³³ ‘SERVICE TRIBUNAL CASES: CONSCIENCE LOGIC’, *Middlesex Chronicle* (4 March 1916), p. 6

⁷³⁴ Ibid.

⁷³⁵ Rae, *Conscience and Politics*, p. 105.

experience as they were elsewhere.⁷³⁶ The following two cases are worth evaluating in detail because they provide an understanding of how diverse the hostile questions were that C.Os. could face and the enormous pressure that the format and structure of the interaction could place the C.O. under. There is nothing in the interrogations that Rae calls the ‘unsynchronized, Pinteresque quality’ of C.O./tribunalist exchanges in which, ‘the questioning was inconsequent rather than unfair, the examination of the applicant’s views perfunctory rather than prejudiced.’⁷³⁷ Instead, the tribunalists who conducted the interrogations sought to opine aggressively upon the absolutists’ views, attempt to argue them out of their position, impugn their characters, lecture them on their obligation to contribute to the war effort and mock their responses. The following interrogations give the impression that the Tribunalists used these hearings to vent their spleen at men whose pacifism infuriated them. The experience therefore must have been intimidating and humiliating for both applicants.

The two cases in question were reported on 14 April 1916 by the *Finchley and Hendon Times*.⁷³⁸ The newspaper reports gave little detail about the background of the applicants and kept them anonymous, but what is known is that both came from Golders Green in North London and both were members of the No-Conscription Fellowship. The first applicant was faced with a crossfire of questions from six tribunalists who together were recorded as asking twenty questions with another unnumbered series of questions coming from a Tribunalist called Mr Cooper. The Chairman’s first question was to ascertain whether the applicant was prepared to do non-combatant service as an

⁷³⁶ Rae quotes from a long, inconclusive line of questioning between a member and an applicant at the Bradford Local Tribunal. See Rae, *Conscience and Politics*, p. 106.

⁷³⁷ *Ibid.*, p. 107.

⁷³⁸ ‘CONSCIENTIOUS OBJECTORS’, *Hendon and Finchley Times* (14 April 1916), p. 3

alternative to combat to which he replied that he was not. The Chairman continued by asking what the applicant's 'personal objection' was to doing his 'bit for the country.' This question was not an impartial one, for by adding the colloquial expression 'doing one's bit for the country', the Chairman signalled his view that the applicant was obliged to do something for the war effort. The applicant replied that he did not think it right to contribute anything to the war effort. When asked by Mr Nelson, the most aggressive member of the Tribunal on this occasion, whether there was any other way of defending one's country, the applicant replied 'by love and kindness'. At this, the Tribunalist poured scorn on the appellant. Nelson asked what the result would be if love and kindness were adopted as a defence policy to which the applicant declared that he would have to 'wait and see'. Nelson drew laughter from his fellow panel members when he observed that the applicant would wake up and find he was dead. Nelson, however, was not finished with the applicant and after the laughter had died down, used a common line of questioning that was designed to test the applicant's resolve by confronting him with German barbarism: had the applicant, Nelson asked, 'never read the account of the treatment by the Germans of British prisoners at Wittenburg?' The applicant's denial that he had read of this account provoked Nelson to lecture him fiercely. In Nelson's opinion war was indeed loathsome, but what was worse was 'dishonour'. Nelson referred at this point to the violation of Belgium and demanded to know whether the applicant was 'serious about not defending little Belgium' in the light of the way that country had been treated. Nelson reminded the applicant that the War from the British perspective was not one of aggression and his emotive rhetoric intensified when he described how British 'blood and treasure' had been poured out in defence of 'a little country which had been overridden' and that heaven help the man

who could stand by and ignore the treatment of Belgian women and children. He ended his lecture with a metaphor designed to shame the applicant: the War was not one of aggression, he repeated 'but simply defending a little child against a bully.'

The tribunalists were not yet finished and each ensured that he had his chance to question the C.O. The Chairman returned to the fray by asking whether the applicant objected to a war of defence in the event of a foreign invasion. At this point, the appellant maintained a line of consistency in his counter-argument. Having informed Nelson that he would interject his body between a violent adult and his child victim without doing harm to the perpetrator, he replied that he would put himself between his country and an enemy invader, but he would not use brutal force. The Chairman was incredulous: how was it possible, he asked, to keep the Germans out without the use of force? The appellant demonstrated some brave intent by stating that it was unnatural to take a life and that the enemy would have to take his life first. At that moment, another stock-in-trade hypothetical question surfaced in the dialogue. Mr McManus asked the appellant what he would do 'if the enemy tried kill his mother, his sister or his wife' and received the only reply the appellant could logically return: "I should stand between them." The advantage of hypothetical questions was that they could be modified to make the question more demanding to answer. Thus, McManus posed the following scenario: 'if you knew that standing between them would not save them, but that the killing the German would so what would you do?' The appellant was not deterred: he was certain that by interjecting his body between the Germans and his female relations, he would be killed first and then he would be unable to help them anyway. As the appellant was a member of the Church of England, Nelson opened a new line of attack

by asking a question regarding the Scriptures: was there any command in Scripture not to defend oneself when another causes injury to one? According to the report, the appellant perhaps lost his composure for he 'was not very clear in his reply'. Nelson then asked him whether he would let another man kill him, thus enabling another to commit a crime, rather than defending himself. The appellant was certain he would defend himself, but he consistently confirmed that he would not use brutal force. When Mr Johnston asked whether he would not 'use his fists', the appellant replied that he would 'just put up a hand'. That to Mr Fraser was the use of force, but again the applicant denied his actions constituted brutal force. At this point Nelson intervened to lecture the applicant once more. Nelson declared that fighting for the country was 'a righteous cause' and that he failed to understand a man who knew war crimes by Germany had been committed and yet who refused to act in self-defence. He added according to the report 'with emphasis' that 'this was not a war for conquest, but merely for freedom and liberty'. Mr Spencer Cooper tried a new line of questioning by leading the applicant to the admission that 'everyone had a duty to others' and then 'pressed home' with another question: 'Have you ever engaged in social work?' When the appellant said he had not, it was Cooper's turn to lecture the applicant. Cooper found it 'strange that many who came before the Tribunal sharing the views of the appellant had not done anything for the betterment of their fellow men.' He also found it strange that 'men with strong convictions' such as C.Os. were not 'men of strong actions' prepared to put the many wrongs of the world to right. He too appealed to the applicant's sense of chivalry by asking rhetorically that 'surely women and children looked upon men as the natural people to safeguard them?' His final question had a more 'homely' connection: what would the applicant do if a burglar came into his house and would he give the

intruder ‘a bag to take things away in?’ The applicant replied that he might. Cooper continued to press the applicant’s sense of obligation by asking if he would render assistance to a wounded soldier. The applicant said he would help, but would not join the Army Medical Corps as he opposed compulsion. One last attempt was made to break the applicant’s intransigence with an appeal to his sense of justice. The Chairman asked whether the murder of Nurse Cavell did not ‘move some instinct in him’. The applicant replied laconically that he ‘felt sorry for such a deed’. At that reply, Mr Fraser asked, ‘Then why not help stop it?’ to which the applicant replied that he ‘objected to military work’. As the interrogation primarily aimed at arguing the applicant out of his viewpoint rather than ascertain the genuineness of his convictions, the result was deadlock and so the Chairman wound up proceedings by dismissing the idea that there was any genuine conviction on the part of the applicant by declaring that the only reason the applicant was opposed to military work was because he was compelled to it. It is no surprise that the application was refused, though whether the applicant was directed to non-combatant service is not stated.

As Rae writes, ‘the same question appeared in a variety of forms’⁷³⁹ and in the second interrogation, the appellant faced similar lines of questioning which were designed to shame him out of his position and provide the scandalised tribunalists some measure of catharsis in venting their disbelief and displeasure. The second applicant was a member of the Lutheran Church whose belief in ‘human life and the brotherhood of man’ prevented him from taking any part in the war’s prosecution and that no ‘national decision’ could alter his attitude. He was permitted by the Tribunal to read aloud ‘a

⁷³⁹ Rae, *Conscience and Politics*, p. 106.

prepared statement' which said that he refused non-combatant work as it would make the 'military machine' more effective and that he was a member of the No-Conscription Fellowship. Mr McManus was immediately suspicious and asked whether the applicant had written the statement himself. Other Tribunal members also noted that they had heard something similar used by another applicant. The applicant replied that it was his own composition, but that another had revised it. As with the first applicant, Nelson was eager to get to grips with the second and he used the same question that Spencer Cooper had used with the first: had the applicant performed any social work? On this occasion, the answer was affirmative: the applicant had 'endeavoured for ten years to change the system' that would 'abolish poverty and do away with suffering.' Cooper wanted to know how and the applicant replied that he had helped to establish the Independent Labour Party and performed parliamentary and municipal work. Cooper, in reply, accused the applicant of hypocritically sending men to Parliament to create laws which he did not obey himself, to which the applicant stated that he had tried to send to Parliament men who shared his views. With that line of questioning at an end, the Chairman, who failed to remember that the applicant's written statement had just informed him that he was a church member, questioned the appellant as to how he could be moved by conscience when he was a member of an 'agnostic body', the No-Conscription Fellowship. The applicant replied that 'conscience rested upon man's better self' and that the War had strengthened his position. The Chairman then played the war crime card, asking whether the 'visits of Zeppelins did not move him'. When the applicant declared that the Zeppelins 'moved against war as a whole' and that 'the greatest protection against war was disarmament', the Chairman expostulated that he was 'almost ashamed to sit there and hear such talk.' At that point, Fraser asked a

variation of what Cooper has asked the first applicant: was the applicant prepared to defend himself if he were attacked, to which the applicant replied with justification that he found the question irrelevant. Fraser did not think so, for he observed that it was the fleet's capacity to defend Britain that had prevented a German invasion. Rather than confront the applicant with the mistreatment of British prisoners at Wittenberg, Johnston tried a variation: what would the applicant do 'if Zeppelins came to Golders Green and killed and injured innocent women and children?' The applicant did not answer the question directly, but was of the opinion that if everyone acted the way he did, 'the occasion would never arise'. Eventually the question of Belgium, which had featured in the first absolutists' interview, emerged once more when the applicant expressed the view that Germany was not the aggressor in the War and that it would not attack an undefended country. Nelson was outraged at this statement. Did the Germans not attack Belgium, he demanded; to which the applicant gave the gnostic reply, 'Belgium was defended', thereby affirming that the Germans had not attacked an undefended nation. The exchange ended farcically when Nelson drew laughter by asking whether the applicant thought the Germans had 'wanted to get to Brussels to see the pictures.' The application was as with the first objector refused, though what sort of exemption the objector did receive, if at all, is not stated.

The C.O. as the Misguided Idealist

If the C.O. was figured in mainstream discourse as being despised and rejected for being unmasculine, a shirker, a criminal and a traitor, he was also featured as the misguided idealist who because of his youth knew no better. This was the condescending conclusion of the Hornsey Local Tribunal in the case of Edgar Alcock-

Rush who had sought absolute exemption but was given exemption from combatant service only. In his notes on Alcock-Rush's Notice of Appeal, the Chairman of the Hornsey Local Tribunal presented Alcock-Rush as an eccentric due to his 'references to vegetarianism and humanitarianism'. The Hornsey Tribunalists were certain that Alcock-Rush's opinions were not deeply held, but were 'most probably based on talk at some youths' discussion class'. The Chairman opined also that as Alcock-Rush could not give the more respectable religious or moral reasons for objection, his conscientious objection was more 'a desire to avoid the risks of Army service'. What made Alcock-Rush appear confused in his thinking and bizarre in his opinions was the fact that according to the Chairman he also described himself as a 'Christian spiritualist.'⁷⁴⁰

Harold Hasted, who sought work of national importance rather than military duty because of his Christian faith,⁷⁴¹ was also patronised for his youth and ideals by the Military Representative to the Tottenham Local Tribunal, A. Broadberry, who appealed against the Local Tribunal's decision to exempt Hasted to take on work of national importance.⁷⁴² Broadberry was sceptical that 'this youth' could have a conscience and noted what he believed to be a contradiction in Hasted's position because he had 'so far yielded to the "military machine" as to be medically examined'. Broadberry was certain that by joining the Army, Hasted would learn the valuable lesson 'that the surest way to save life is to put an end to those who have set out to destroy it.'⁷⁴³ Going to the front was therefore to be an educative experience for idealistic teenagers. The Appeal

⁷⁴⁰ TNA: MH 47/67/37: Edgar Rush M1697: R. 43 'Notice of Appeal', 17 August 1916.

⁷⁴¹ TNA: MH 47/68/16: Harold Llewellyn Hasted M3615: R.41 'Application as to Exemption', 17 February 1917.

⁷⁴² TNA MH 47/68/16: Harold Llewellyn Hasted M3615: R.43 'Notice of Appeal', 6 April 1917.

⁷⁴³ Ibid.

Tribunal perhaps shared Bradberry's scepticism and yet not wishing to undermine the Local Tribunal, varied the decision to exemption from combatant service only.⁷⁴⁴ Hasted therefore was consigned to learning lessons from his frontline experience, though without a gun in his hand.

The Discourses of the Middlesex C.Os.

The starting point of the C.O's. discourse with the tribunals was one of self-definition: what sort of conscientious objector did the man consider himself to be? On Form R.41 titled 'Application as to Exemption' which was the first document the C.O. completed, section 5 asked the appellant what the nature of his application was. Traditionally, historians have divided C.Os. into three types: the alternativist who was prepared to accept non-combatant service under military command; those who accepted non-combatant duty under civilian authority only; and the absolutist who refused to perform any form of service.⁷⁴⁵ It is important to note that though absolutists were not prepared to contribute to the war effort, they had a social conscience and wished to contribute to the good of their society in a way that promoted its good in other ways. Within the Middlesex archive, Leonard Steele was an excellent example of this way of thinking.⁷⁴⁶ For Steele, combatant duty was out of the question and so too was non-combatant work with the military for it was 'as essential for the prosecution of warfare' as combatant duty. It also meant working as part of the military system. Instead, Steele wished to contribute through his work spreading 'Christian social and personal Purity propaganda'

⁷⁴⁴ TNA MH 47/68/16: Harold Llewellyn Hasted M3615: R.58 'Notice of Decision', 3 May 1917.

⁷⁴⁵ Rae, *Conscience and Politics*, p. 87.

⁷⁴⁶ TNA MH 47/67/19: Leonard Steele M1164: 'Application as to Exemption', 22 June 1916.

in order to restrain sexual immorality at a time when venereal disease was a growing problem.⁷⁴⁷

Absolutists have the reputation for being uncompromising which has been fostered by the narratives of absolutists imprisoned for refusing to cooperate with the military authorities, but there are examples in the Middlesex archives of absolutists who were prepared to compromise. John Miller described his position as absolute on religious grounds to the Hendon Local Tribunal.⁷⁴⁸ When they exempted him from combatant service only,⁷⁴⁹ he appealed and was permitted to apply to work for the F.A.U. as an alternative to finding work of national importance,⁷⁵⁰ which he was successful in obtaining.⁷⁵¹ There is no reason to believe that Miller was not a sincere absolutist at the start of his application process, but he was flexible enough to cut his losses by accepting what was offered to him. Working for the F.A.U. meant that at least he could avoid serving under military authority and be of use to his fellow men whom his Quaker beliefs led him to see as his brothers. The Jehovah's Witness, Edgar Watson, defined himself according to two categories. He stated on his application to the Enfield Local Tribunal that the sort of exemption he wanted was 'absolute if possible, if not conditional' on conscience and domestic grounds.⁷⁵² The Enfield Local Tribunal exempted him from combatant service only, but on appeal, he was granted 21 days to find work of national importance.

⁷⁴⁷ TNA MH 478/67/19: Leonard Steele M1164: 'ANSWERS TO QUESTIONNAIRE' (undated).

⁷⁴⁸ TNA MH 47/67/29: John Miller, M1464: 'Application as to Exemption', 16 June 1916.

⁷⁴⁹ TNA MH 47/67/29: John Miller, M1464: R.43 'Notice of Appeal', 5 August 1916.

⁷⁵⁰ TNA MH 47/67/29: John Miller, M1464: R.58 'Notice of Decision', 24 August 1916.

⁷⁵¹ TNA MH 47/67/29: John Miller, M1464: Letter from J. R. Little, Honourable Secretary to the Friends Ambulance Unit to Mr. J. R. Miller, 1 September 1916.

⁷⁵² TNA MH 47/67/9: Edgar Watson M923: R.41 'Application as to Exemption', 21 June 1916.

Some appellants used the term absolutist or absolute objection to mean that they were absolutely opposed to any form of service with the military, but were prepared to undertake work of national importance. Their use of the term absolutist or absolute referred to their determination not to be conscripted, not to their belief that they should play no part in the War. They were in reality determined alternativists. Frederick Tyrell was one such man. A member of the Salvation Army, Tyrell stated on his application to the Edmonton Local Tribunal that the nature of his exemption request was absolute on grounds of conscience and domestic grounds as he was the sole support of a large family and his elderly mother.⁷⁵³ In response to Form R. 87, Tyrell declared that he objected ‘to any form of military service whatsoever’ and that he regarded non-combatant service as equivalent to combatant service. However, later in his response, he revealed that he was ‘willing to undertake any work of national service that would not violate’ his conscience.⁷⁵⁴ The Edmonton Local Tribunal saw fit to exempt him temporarily for one month.⁷⁵⁵ The Appeal Tribunal was more generous, accepting that his conscientious objection was genuine and exempting him from combatant service only with the rather fortunate stipulation that he was not to be called up until 31 December 1918.⁷⁵⁶ Another appellant, Rivett Cox, described himself also as an absolutist. As a member of the Plymouth Brethren based in Ealing, Cox was unable to ‘fight or be identified with the fighting system’, hence his absolute opposition to both combatant and non-combatant service. But because of the Apostle Paul’s command to

⁷⁵³ TNA MH 47/68/39: Frederick Tyrell M5914: ‘Application as to Exemption from Military Service’, 17 May 1918.

⁷⁵⁴ TNA MH 47/68/39: Frederick Tyrell M5914: Application on the Ground of Conscientious Objection.

⁷⁵⁵ TNA MH 47/68/39: Frederick Tyrell M5914: Notice of Appeal, 3 October 1918.

⁷⁵⁶ TNA MH 47/68/39: Frederick Tyrell M5914: R.57 ‘Notice of Decision’, 6 November 1918.

be subject to human authority, Cox declared that he honoured the King and desired 'to be subject to the existing authorities in every way that was consistent' with Christ's teachings. Cox accepted that both Heaven and Whitehall had claims on him and therefore sought a way to serve the state without violating his conscience.⁷⁵⁷ The Appeal Tribunal exempted Cox on condition that he found work of national importance within 21 days.⁷⁵⁸ 17 days later, Cox found work with Greatness Farm in the Kentish town of Sevenoaks.⁷⁵⁹

The Ideologies of Conscience

According to Robbins, it was not the scale or duration of the War that triggered conscientious objections, but the fact that war was intrinsically evil.⁷⁶⁰ This is true of the surviving case papers of those C.Os. in Middlesex who appealed. Killing was in itself evil regardless of how many were killed and for how long the killing went on. Most C.Os. across the nation were objectors on religious grounds. This is revealed in the Pelham Committee's report which provided an analysis of the objections of the men referred to it. Of the 3,964 men it dealt with, the nature of the objection of 1,050 was not stated. Of the remainder who did state their objection, only 199 objected to war on moral grounds and 42 for political grounds. The remainder, 2673 men, belonged to 41 different denominations and sects, with Christadelphians being the most numerous.⁷⁶¹ The Middlesex case papers reveal a similar picture with religious objectors in the great majority. In justifying their objection to the tribunals, religious objectors spoke of what

⁷⁵⁷ TNA MH 47/67/20: Rivett Cox M1212: Application as to Exemption, 12 June 1916.

⁷⁵⁸ TNA MH 47/67/20: Rivett Cox M1212: Notice of Decision, 5 August 1916.

⁷⁵⁹ TNA MH 47/67/20: Rivett Cox M1212: Letter from Rivett Cox to the Middlesex Appeal Tribunal, 19 August 1916.

⁷⁶⁰ Keith Robbins, 'The British Experience of Objection', p. 691.

⁷⁶¹ *Report of the Pelham Committee, Schedule 4*, quoted in Rae, *Conscience and Politics*, pp. 250-251.

to them were spiritual realities which to the ears of their contemporaries seemed 'strange' and 'ethereal' and out of touch with the practical realities of war.⁷⁶² It was therefore not surprising that C.Os. were regarded as 'self-centred and opinionated beings'⁷⁶³ whose theorising was useless in a situation that required action.

The Middlesex religious objectors frequently asserted that their loyalty to God the Father and Jesus Christ took priority over their loyalty to the state. This would not have been a problem if these men had believed that the War was a holy one, but it was the ethic of universal love which these men saw at the heart of Christ's teaching that prevented them from serving as soldiers. Walter Flexman declared to the Willesden Local Tribunal that according to his Plymouth Brethren beliefs, he belonged to 'the Lord Jesus Christ' and therefore could not belong to the 'military system'.⁷⁶⁴ The Quaker John Miller informed in his responses to the R.87 questions that he believed in 'God who is the Father of all mankind.' Therefore, 'all men' were 'brothers' and 'members of the great human family.'⁷⁶⁵ In his application to the Enfield Local Tribunal, Edgar Watson defined the 'Gospel of Jesus Christ' as enjoining 'mutual love and aversion to killing human beings' and 'consequently also any form of service or work assisting to kill.'⁷⁶⁶ William Horne expressed similar sentiments when he argued that Christ taught 'universal love' which meant loving not only one's friends, but also one's enemies. For Horne, Christianity had 'no frontiers' and to a Christian all men

⁷⁶² Kennedy, 'Public Opinion and the Conscientious Objector', *The Journal of British Studies*, 12.2 (1973), p. 111.

⁷⁶³ MacDonagh, *London During the Great War*, p. 100.

⁷⁶⁴ TNA MH 47/68/4: Walter Flexman M: responses to R. 87 'Application on the Ground of Conscientious Objection, 23 June 1916.

⁷⁶⁵ TNA MH 47/67/29: John Miller M1464: 'Answers to Questions in reference to Mr Long's Circular dated 1st June 1916.'

⁷⁶⁶ TNA MH 47/67/9: Edgar Watson M923: 'Notice of Appeal', 3 July 1916.

were ‘brothers’.⁷⁶⁷ Instead of the word ‘love’, Isaac Goss in his application to the Hornsey Local Tribunal used the term ‘active friendliness to all men’.⁷⁶⁸ Why Goss did not use the word love is not known, but his expression communicates an empathy with all men, including Germans.

While many religious C.Os. separated their duty to God and their faith from their duty to the state, some separated themselves totally from the state and claimed that their citizenship was heavenly rather than earthly. This was what the theologian H. Richard Niebuhr has christened the ‘Christ against culture’ stance in which the Christian ‘affirms the sole authority of Christ’ over him and ‘resolutely reject culture’s claims to loyalty.’⁷⁶⁹ Alfred Hopkins, who applied for exemption from the Wood Green Local Tribunal, epitomised this view. On his ‘Application as to Exemption’, Hopkins declared himself to be ‘a subject of Christ’s kingdom’, and therefore ‘in this World, (but not of it)’. Hopkins was also determined to ‘Love not the World nor the things in the World.’ The Wood Green Local Tribunal was not convinced he was a *bone fide* conscientious objector and so they dismissed his application. In the eyes of the Appeal Tribunal, being in the world was sufficient for Hopkins to be expected to play his part, and they chose to exempt him from combatant service only.⁷⁷⁰ Henry Hustler, a member of the Brethren sect in Ealing, went further in separating himself from the world by asserting on his ‘Application to an Exemption’ to the Ealing Local Tribunal that as he was a member of the ‘body of Christ’, he was ‘morally dead to the world’. His language

⁷⁶⁷ TNA MH 47/67/10: William Horne M925: responses to Form R.87 ‘Application on the Ground of Conscientious Objection’.

⁷⁶⁸ TNA MH 47/67/40: Isaac Goss, M1890: R.41 ‘Application as to Exemption’, 22 June 1916.

⁷⁶⁹ H. Richard Niebuhr, *Christ and Culture* (New York: Harper Row, 1951), p. 45.

⁷⁷⁰ TNA MH 47/68/10: Alfred Earnest Hopkins, M3410: R.41 Application as to Exemption, 5 February 1917.

became more obscure when he wrote that he lived ‘in another scene of which Christ is the centre and the glory.’⁷⁷¹ The local tribunalists did not doubt that he was a C.O., but nevertheless considered him as much part of the terrestrial world as themselves and awarded him exemption from combatant service.⁷⁷² When Hustler appealed, the Appeal Tribunalists were no less convinced of Hustler’s corporeal presence and awarded him work of national importance to do.⁷⁷³

Alongside the general humanitarianism of religious C.Os. who saw enemy soldiers as their fellow humans was their recognition that among the German military population were men who were also Christians. Charles Becket captured this idea in a poetic way in his application to the Hornsey Local Tribunal to be exempted to preach the Good News to British troops.⁷⁷⁴ In a typed statement of his position, Becket made this point:

‘It would be impossible for me to bear Arms, conscious that to the opposing Forces there were those, maybe, who
Owned the same Lord
Served the same Master
Believed on the same Saviour
Accepted the same beliefs.’⁷⁷⁵

Another impediment for the religious objectors was the sacredness of human life. Lewis Phillips, the Quaker, wrote in his application to the Edmonton Local Tribunal that life was ‘a God given gift’ which made the act of killing an ‘act of ‘murder’.⁷⁷⁶ James French, who applied for absolute exemption from the Heston and Isleworth Local

⁷⁷¹ TNA MH 47/67/4: Henry Hustler, M790: R.41 Application as to Exemption, 8 June 1916.

⁷⁷² TNA MH 47/67/4: Henry Hustler, M790: Reasons for Decision of the Local Tribunal.

⁷⁷³ TNA MH 47/67/4: Henry Hustler, M790: R. 57 Notice of Decision, 13 July 1916.

⁷⁷⁴ TNA MH 47/68/37: William Edwin Becket M5584: Application as to Exemption, 31 April 1918.

⁷⁷⁵ TNA MH 47/68/37: William Edwin Becket M5584: GROUNDS FOR CONSCIENTIOUS OBJECTION TO BEARING ARMS ON MILITARY SERVICE.

⁷⁷⁶ TNA MH 47/67/17: Lewis Phillips, M1132: R.41 Application as to Exemption, 13 June 1916.

Tribunal explained on his R.41 form that there was ‘something divine in every human being.’⁷⁷⁷

The sanctity of human life was also an important belief for those whose conscientious objection was based on a non-Christian spiritual worldview. Charles Ball declared himself a theosophist in his application for absolute exemption to the Twickenham Local Tribunal. This meant that he adhered to moral utilitarianism in that he sought ‘to live in a way to ensure the greatest happiness and the least suffering for our fellow men.’ Ball regarded all people as interconnected so that wronging one person was tantamount to wronging the whole of humanity.⁷⁷⁸ Similarly to the Christian James French’s view that humans have something divine in their being, Ball described all humans as being ‘Divine beings’ in their ‘inner selves’.⁷⁷⁹

Christian conscientious objectors challenged the notion of the soldier as a Christian warrior by arguing that the real struggle was not against the Central Powers, but maleficent spiritual forces. Arthur Patmore, in apocalyptic language, wrote in his application of the struggle to liberate humans from the ‘power of sin’ which had set nations against one another.⁷⁸⁰ The Seventh Day Adventist, Horace Howard, stated in his application that the struggle with the powers of evil was the only legitimate ‘war’.⁷⁸¹ However, Howard was not wholly detached from fleshly realities for when his

⁷⁷⁷ TNA MH 47/67/22: James French, M1225: R.41 Application as to Exemption, 22 June 1916.

⁷⁷⁸ TNA MH 47/68/26: Charles Edward Ball M4402: R. 41 Application as to Exemption, 9 June 1916.

⁷⁷⁹ TNA MH 47/68/26: Charles Edward Ball M4402: Responses to R. 87 Application on the Ground of Conscientious Objection, 9 June 1916.

⁷⁸⁰ TNA MH 47/67/43: Arthur Patmore, M2023: responses to R. 87 Application on the Ground of Conscience.

⁷⁸¹ TNA MH 47/68/30: Horace Douglas Howard M4845: Application as to Exemption, 22 December 1917.

application was dismissed by his local tribunal, the Appeal Tribunal granted him exemption from combatant service, which he had desired.⁷⁸² To the objection that the Old Testament is replete with examples of God commanding the Israelites to fight against their enemies, and therefore sanctioning holy wars, William Jerrett explained to the Edmonton Local Tribunal that the notion of holy war had been superseded by ‘the coming of Jesus Christ the prince of peace’.⁷⁸³

Sometimes the language of the C.O. was rich in Scriptural quotations which reflected the man’s evangelical disposition. Albert Griffiths, a gas fitter’s mate for the Tottenham Gas Company and a preacher with the Brethren sect that met at Springfield Hall, Tottenham, was exempted by the Tottenham Local Tribunal on condition that he found within 21 days work of national importance. Griffiths, who was willing to perform work of national importance, but not in any way connected with the prosecution of the War, appeared before the Appeal Tribunal on 12 September 1916. On his Notice of Appeal, Griffiths provided, as the preacher he was, supporting chapters and verses for his conscientious objection. Griffiths began by quoting John 3:16: that God ‘so loved the world that he gave His only begotten Son that whosoever believeth in Him should not perish but have everlasting life.’ Griffiths drew no pacifist conclusions from this verse well-known to Christians, but the implication was that all, including Germans and Austrians, were loved by God. Griffiths’ use of Romans 12:17 was more specific though not *verbatim*: ‘Recompense to no man evil for evil, live peaceably with all men, and if my enemy hunger, to feed him, etc.’ So too was the commandment Griffiths

⁷⁸² TNA MH 47/68/30: Horace Douglas Howard M4845: Letter from Joint Secretary to Mr. H. D. Howard, 23 February 1918.

⁷⁸³ TNA MH 47/67/24: William Jerrett, M1267: Responses to R87 Application on the Ground of Conscientious Objection, 22 June 1916.

quoted: 'Thou shalt not kill'. Christ was presented by Griffiths as a life-giver by quoting Luke 9:56. The Sermon on the Mount prohibited Griffiths from taking an oath which meant he could not make his pledge of allegiance to the crown on becoming a soldier. It enjoined him to love his enemies too, which meant of course not killing them. Galatians 5:2 informed Griffiths that Christ had set him free and that he was not to be entangled once more 'with the yoke of bondage.' By this, Griffiths meant that he could only obey God. Acts 5:29, in which the Apostle Peter informed the Sanhedrin that he would defy their command not to preach about Christ, gave Griffiths the warrant for civil disobedience.⁷⁸⁴ Though Griffiths might have tested the patience of the Appeal Tribunalists with his scriptural lecture, he was exempted to perform work of national importance.⁷⁸⁵ Perhaps his exhaustive knowledge of the Scriptures convinced them that he was genuine in his conscientious objection.

What emerges from some of the case papers is the importance of what religious C.Os. described as their calling, which was the sacred task which they believed God had called them and which they were determined was not to be interrupted by the War. The Ealing Quaker, Alexander Sim, is a clear example of this way of thinking. At the time of his call-up, Sim was working as the manager of the 'General Correspondence Department' of the Alliance of Honour, which was a charitable organisation that worked to improve the moral purity of men and boys in order to prevent the spread of venereal disease. In his 'Personal Statement' to the Ealing Local Tribunal, Sim declared that he 'was fully serving' his country 'by remaining upon the Staff of the Alliance of

⁷⁸⁴ TNA MH 47/67/26: Albert Griffiths, M1343: R. 43 Notice of Appeal.

⁷⁸⁵ TNA MH 47/67/26: Albert Griffiths, M1343: Letter from the Joint Secretaries to A. Griffiths, 5 September 1916.

Honour.’ In his mind, the battle against sexually transmitted diseases was as urgent as any military conflict. However, he perceived his role as having deeper status than duty: it was his ‘life’s vocation’.⁷⁸⁶ This sufficiently impressed two members of the Ealing Local Tribunal to want to exempt Sim to continue with his work with the Alliance of Honour. Three members preferred to exempt him to perform agricultural work. The Chairman refused to be responsible for making the decision and so decided that Sim would be exempted from combatant service and allow the Appeal Tribunal to decide whether Sim should remain in his present occupation or not.⁷⁸⁷ The Appeal Tribunal was not as impressed by Sim’s sense of calling, and exempted him from any form of military service on condition that he found within 21 days work of national importance and sent a report each month from his employer to the local military representative.⁷⁸⁸ Sim found work with the Y.M.C.A. in Portsmouth and then in Winchester which was approved by the Appeal Tribunal.⁷⁸⁹

Religious C.Os. and their supporters regarded themselves as martyrs who were suffering for the cause of peace. E. Reynolds, whose letter exists as a fragment, wrote sometime in April to the Appeal Tribunal describing C.Os. as martyrs. It is not clear whether Reynolds was himself a C.O., or whether he was an ally of their cause, but his purpose was clear: to remonstrate with the Appeal Tribunal over the sufferings of C.Os. Reynolds used the metaphor of the ‘machine’ to describe the military. By this, he presumably meant that the machine operated irrespective of the objections, emotions

⁷⁸⁶ TNA MH 47/67/21: Alexander Sim, M1213: Personal Statement.

⁷⁸⁷ TNA MH 47/67/21: Alexander Sim, M1213: Reasons for the Decision of the Local Tribunal.

⁷⁸⁸ TNA MH 47/67/21: Alexander Sim, M1213: ‘Notice of Decision’, 5 August 1916

⁷⁸⁹ TNA MH 47/67/21: Alexander Sim, M1213: Letter from the Joint Secretary to the Secretary to the Committee on Work of National Importance, 9 September 1918.

and situations of those who objected because of conscience. He described emotively conscientious objectors as ‘tortured’, yet their ‘only offence...like the early Christians and many others since’ was to put God before the state. The cause of their suffering, other than a heartless military, was that their ideals were worth more than their lives.⁷⁹⁰ Jehovah’s Witnesses who were conscientious objectors were encouraged by *The Watch Tower* to make the ultimate sacrifice rather than compromise their principles: they were to prefer to be shot rather than obey a military order and therefore disobey Christ.⁷⁹¹ In order to cope with their anticipated suffering, some C.Os. looked forward to divine compensation. In his ‘Notice of Appeal’ against the Hornsey Local Tribunal’s decision to exempt him from combatant service, the absolutist Jehovah’s Witness, Frederick Bowen, testified to his belief that if he suffered for his convictions, he was suffering for Christ, which meant that he would reign with Christ in His everlasting kingdom.⁷⁹²

The Buddhist Pacifist Discourse

The Buddhist pacifist discourse of Frank Balls reveals a number of similarities with that of Christian C.Os., but also some distinct differences due to his Buddhist worldview. Like Christian pacifists, Balls was upset at the deleterious effect of the War on personal morality, and twice referred in his appeal application to the well-used *maisons tolerees* behind the lines. Rather than blame sin or interpret the War within the context of a Christian apocalypse, Balls interpreted the invasion of Belgium as a form of *karma* for Belgian atrocities in the Congo. In common with political and moral objectors, Balls regarded loss of freedom as a consequence of fighting the War and the augmentation of

⁷⁹⁰ TNA MH 47/121/4: Letter from E. Reynolds to the Middlesex Appeal Tribunal.

⁷⁹¹ TNA MH 47/67/36: Frederick Bowen, M1695: Extracts from the Official Magazine of the Association, “The Watch Tower”, Vol. 36, Page 260.

⁷⁹² TNA MH 47/67/36: Frederick Bowen, M1695: R.43 Notice of Appeal, 14 August 1916.

central state power that it entailed, not the result of losing the War to the militaristic Prussians. To surrender one's conscience and power of choice to another was intolerable to Balls. Non-combatant work Balls condemned for two reasons: it shared in the guilt of those who carried out the killing and it meant enabling others to kill whilst remaining safe from the dangers of war. Balls had the challenge of explaining why Buddhist nations had been invaded by barbarian neighbours and whether this was caused by their pacifism, an important point to clear up in the light of the fear of a German invasion. Balls argued that the failure of the Buddhists to evangelise their barbarian neighbours was the cause of their invasion rather than Buddhist pacifism. Like his Christian counterparts, Balls thought in terms of sacrifice, not in the sense of his contribution to the war effort but in terms of advancing his faith, for Balls described how he had performed voluntary work for Buddhism in his leisure hours. In anticipation of the stock question, 'would you defend your sister if she were attacked?', Balls clarified his position in a final section of typed exposition to his Statement. His discourse at this point was a moral and political one without specific reference to his Buddhism. Hypothetical situations such as a sister under assault irritated Balls as much as they did his Christian and non-religious C.O. counterparts. Balls dismissed them as impossible to pose, as not all the elements of the situation could be known. Balls would defend a woman from assault and would do so with a stick if it were lying for some reason to hand. The likelihood of his causing permanent injury and death, however, would be very small. Such a measured response was not possible when participating in or supporting a war in which civilians were killed deliberately to satisfy the emotions of greed, revenge and militarist pride. Moreover, if the purpose of the War was to prevent Germans from invading and attacking British women, why was that aim not achieved

by accepting the German peace offer of 1917? The real aim, Balls argued, was to fulfil the promises of secret treaties such as the acquisition of Trieste for Italy.

Similarly to evangelical Christian C.Os. who took their Bibles seriously, Balls deployed excerpts from Buddhist sacred texts to demonstrate that they opposed killing and the creation of the means to kill. Balls provided twelve quotations in total from seven Buddhist teachers such as Sutta Nippata, Dhammapada and Amagandha Sutta which had been cut from their original source and pasted onto a second piece of paper.⁷⁹³ The gist of these excerpts was that to render evil for evil creates more evil and that taking lives was unwise, ignoble and led to punishment after death. The extracts were well chosen not only because they proved that pacifism was at the heart of Buddhism, but also because they were reminiscent of Christ's moral edicts in 'The Sermon on the Mount',⁷⁹⁴ with which tribunalists would have been familiar.

The Language of Political C.Os.

The notion that international capital was the root of hostilities and that the War was the result of the machinations of the elite were at the heart of the discourse of socialist objectors. Samuel Ward wrote on his 'Application to an Exemption' for the Tottenham Local Tribunal that in 1910 he joined 'the Socialist Party realising that the present system of wealth production and distribution would inevitably lead to warfare on the

⁷⁹³ MH 47/52/57: 'Extracts from Buddhist Scriptures'.

⁷⁹⁴ The Sermon is described in Matthew 5-7. The specific part of the Sermon on the Mount that echoes Balls' selection of texts is found in Matthew 5: 21, 22 in which the killing of another is denounced and so too hatred which Christ regards as tantamount to murder. The command not to return violence for violence is found in chapter five, verses thirty-eight and thirty-nine. Love for one's enemy is enjoined in chapter five, verse forty-four.

past of this and other countries'.⁷⁹⁵ Frank Pringle was a C.O. on the basis of his political views and applied for exemption to the Willesden Local Tribunal. On his 'Application as to Exemption' Pringle declared he was an absolute objector. In section 5 where he was required to explain the reasons for his objection, Pringle described his belief in 'the Brotherhood of Humanity'. He was a socialist in that he identified 'the Capitalists of all countries' as 'the real enemy to Mankind' for they alone would benefit from the War and in whose interest the War was being fought. His application was refused by Willesden on the grounds that his was not a religious objection, that he was not a member of any pacifist organisation and could provide no corroborative evidence for his pacifism. In his response to the ten questions for C.Os., Pringle argued that the War had nothing to do with him for it was a War that had been caused by disagreements between diplomats of another country and the diplomats of his own country. International agreements, according to Pringle, were not 'just', for the people had 'not got a voice in the matter, neither in the making of war, or in making the terms of peace'. The Appeal Tribunal, consistent with its distaste for political objectors, dismissed his case also and did not give him leave to appeal to the Central Tribunal.⁷⁹⁶

Moral objections

The case papers reveal that the overwhelming majority of conscientious objectors were opposed on religious grounds, though many sought exemption for other reasons such as their domestic situation and financial hardship. The rarest form of objection was that which was purely on moral grounds without any political or religious dimension. At the centre of the moral objector's discourse was his concern for progress and the ways in

⁷⁹⁵ TNA MH 47/67/30: Samuel Ward M1502: R41 Application as to Exemption, 21 June 1916.

⁷⁹⁶ TNA MH 47/67/33: Frank Pringle, M1621: R.41 Application as to Exemption, 23 June 1916.

which the War would retard or undermine it. Charles Ireson informed the Hornsey Local Tribunal that war was ‘disastrous to the moral, mental, physical and social progress of humanity.’⁷⁹⁷ Albert Bertin, as discussed above, sought ‘Absolute Exemption from Combatant service’.⁷⁹⁸ In his ‘Replies’ to the questions on Form R.87, he asserted to the Willesden Local Tribunal that his guiding moral principle was that he objected ‘to taking or assisting in taking human life.’ He went on: ‘no real progress’ could be ‘accomplished by the force of arms.’⁷⁹⁹ The moral objector risked being misunderstood because of the nature of his objection. The Hornsey Local Tribunal did not grant Ireson any form of exemption⁸⁰⁰ because although Ireson had spoken at his hearing of the ‘evils resulting from war’, ‘conscience’ seemed ‘scarcely to enter into the question.’⁸⁰¹ So unusual was moral objection that the Willesden Local Tribunal admitted to having ‘had some difficulty in ascertaining the precise ground’ of Bertin’s objection because ‘it had no foundation in religion nor was it political.’ The result was that the Local Tribunal refused the application.⁸⁰² The Appeal Tribunal appears to have had a little more sympathy and understanding, but not much more because the exemptions it gave were not what each appellant sought. Ireson was not prepared to perform any form of military service, but was exempted from combatant service only.⁸⁰³ Bertin fared better because he was exempted conditionally on performing work of national importance.⁸⁰⁴

⁷⁹⁷ TNA MH 47/67/38: Charles Ireson M1703: R.43 Notice of Appeal, 17 August 1916.

⁷⁹⁸ TNA MH 47/67/27: Albert Bertin, M 1445: R.41 Application as to Exemption, 15 June 1916.

⁷⁹⁹ *Ibid.*, ‘Replies’, 15 June 1916.

⁸⁰⁰ TNA MH 47/67/38: Charles Ireson M1703: R. 41 Application as to Exemption, 22 June 1916.

⁸⁰¹ TNA MH 47/67/38: Charles Ireson M1703: R.43 Notice of Appeal, 17 August 1916.

⁸⁰² TNA MH 47/67/27: Albert Bertin M1445: Notice of Appeal, 22 August 1916.

⁸⁰³ TNA MH 47/67/38: Charles Ireson M1703: R. 57 Notice of Decision, 26 September 1916.

⁸⁰⁴ TNA MH 47/67/27: Albert Bertin M1445: Notice of Decision, 24 August 1916.

Multiple grounds of application

It ought not to be assumed that C.Os. made applications for exemptions on conscience alone, which is the impression the reader receives when reading Rae's seminal text, *Conscience and Politics*. C.Os. were concerned with maintaining a clean conscience, but along with their claim of tender conscience they often sought exemption from among the full range of grounds possible. George Glazebrook initially sought exemption on 14 February 1916 from the Finchley Local Tribunal because he was the sole support of his widowed mother and received six months exemption to find some arrangement for her. When his six months exemption expired, he sought exemption again because of his mother and because of his refusal to perform combatant and non-combatant duties.⁸⁰⁵ Though Glazebrook produced a letter from F. S. Webster, the Rector of All Souls Langham Place, testifying to his convictions, his application was dismissed for two reasons.⁸⁰⁶ First, the Finchley Tribunalists concluded that his mother would suffer no hardship if he were conscripted. The Tribunalists may have been led to this conclusion by a letter sent to them by J. W. James who informed them that Glazebrook's mother received the more than adequate pension of £1-00 a week from her dead husband's company.⁸⁰⁷ Second, the fact that Glazebrook had not brought up the matter of his conscientious objection at his first hearing in February made the Tribunalists suspicious of his sincerity.⁸⁰⁸ The Appeal Tribunal was prepared to give

⁸⁰⁵ TNA MH 47/67/44: George Glazebrook M2035: R.41 Application as to Exemption, 31 August 1916.

⁸⁰⁶ TNA MH 47/67/44: George Glazebrook M2035: Notice of Appeal, 28 September 1916.

⁸⁰⁷ TNA MH 47/67/44: George Glazebrook M2035: Letter from J. W. James to B. Todd Esq., 5 October 1916.

⁸⁰⁸ TNA MH 47/67/44: George Glazebrook M2035: press cutting entitled 'Conscientious Objector'.

Glazebrook the benefit of the doubt, but just in case he was being deceptive, he was awarded exemption from combatant service only.⁸⁰⁹

Criticism of the Tribunals

A distinguishing feature of the Middlesex C.Os. was their readiness to criticise the Tribunals. Isaac Goss, a Quaker absolutist, wrote to Herbert Nield on 12 June 1916, taking him to task for not granting absolute exemption and describing the effect of not granting absolute objection on those who sought it. Goss reminded Nield of the cases of the three Walker brothers and of a man named Hughes who were judged by the Appeal Tribunal not to have genuine conscientious objections and who were given no exemption. These four men were arrested and taken to Mill Hill where they ‘were pretty roughly handled and divested of their clothes and put into khaki and transferred to Chatham Lower Barracks.’ These men wrote to Goss describing their treatment and in response, Goss spoke with ‘an important officer in the Eastern Command’ and with a Colonel in order to ensure that the torture ceased. Goss informed Nield that both officers actually did not want uncooperative absolutists in the Army as it was ‘folly and a waste of their time’ to have to deal with such men. Goss reinforced the point by referring to ‘the time and expenditure’ that had been wasted in trying to make these men conform. As evidence that these men had consciences after all, Goss referred to the fact that the men had ‘maintained a consistent attitude of courteously and firmly refusing to become soldiers.’ Goss ended on a conciliatory note. He wished neither ‘to rail’ against Nield nor to assert that he had not given careful consideration to these cases. Goss wanted Nield to have this information in order to give him ‘cause for serious thought’

⁸⁰⁹ TNA MH 47/67/44: George Glazebrook M2035: Notice of Decision, 1 November 1916.

regarding the consequences of not discovering conscience. Goss, however, remonstrated with Nield for refusing to award absolute exemption despite it being provided for in the First Military Service Act and the Local Government Board's circular on the matter.⁸¹⁰

Post-Hearing Criticisms

There is an example in the Appeal Tribunal's correspondence of an absolutist who chose to perpetuate communication with the Tribunal after his hearings had concluded. Herbert Nield was the target of bitter criticism by a man whom he had refused to give absolute exemption to and who was now in prison for refusing to follow military orders. The letter came from George Sutherland via his wife, Christine Sutherland, as Sutherland was not able to contact Nield directly. Sutherland was a man of considerable education as he was described by his wife in her covering letter as a 'late master of Harrow School and lecturer of Rhodes University Grahamstown',⁸¹¹ which contrasted painfully with his prison sentence which according to Sutherland's letter was his '3rd sentence of hard labour as a conscientious objector.' In his letter, Sutherland had informed Nield that he was aware that Lord Curzon had made a statement on behalf of the Government that Nield would be re-considering his case along with other cases he might have given absolute exemption to had he realised that the Act intended such to be available. Sutherland thought therefore that it was right to remind Nield that on 29 March 1916, when exempting Sutherland from combatant service only, that Nield had remarked that 'this was the furthest form of exemption' that he was 'empowered by the Act to give.' Sutherland added that the effect of this decision had been that he had

⁸¹⁰ TNA MH 47/67/40: Letter from Isaac Goss to Herbert Nield, 12 June 1916.

⁸¹¹ TNA MH 47/122/14: Letter from Christine Sutherland to Sir Herbert Nield, Chairman of the Middlesex Appeal Tribunal, 8 January 1918.

‘served successive sentences of hard labour ever since.’⁸¹² Sutherland’s letter was a reminder to Nield of his responsibilities to reconsider Sutherland’s case as a means of liberation from prison; but there is a sense too that the letter was written out of revenge and a desire for self-justification. Nield had been proved wrong and Sutherland wished to remind Nield of it.

A Moment of Dry Humour

The overwhelming impression this chapter has given is that the interactions between tribunalists and C.Os. were hostile, but there is one rare instance of humour preserved in the newspaper record. According to an unnamed local newspaper, the Enfield Local Tribunal heard the case of a conscientious objector called Ernest S. Curzon. Curzon had been granted two months’ exemption in order to find work of national importance. He described himself as “a minister of religion”, the reporter’s quotation marks around the title suggesting some doubt as to this assertion. Curzon had been summoned to appear before the Tribunal to demonstrate that he had found work of national importance. Curzon reported that he was working on a farm in Essex which had been approved by the Secretary of the Committee of Work of National Importance. As evidence of his religious participation, which was the basis of his objection, Curzon had Sunday free from work by his employer’s permission so that he could travel to Enfield to conduct church services. The language used by the Chairman, if deliberate, was one of light-hearted irony in the case of a conscientious objector: “He has done what we have asked him to do. Now we must be conscientious and keep our promise.” Mr Bowyer, one of the Tribunalists, asked whether Curzon felt “much better for working

⁸¹² TNA MH 47/122/14: Letter from George Sutherland to Sir Herbert Nield, Chairman of the Middlesex Appeal Tribunal, 8 January 1918.

on the land?"" and in reply, Curzon drew laughter by saying, "" I did not feel ill before.""⁸¹³

Conclusion

This chapter has presented the content and motifs of the public discourses of Middlesex and the discourses of the tribunalists and the appellants. So pervasive was hostility towards C.Os., particularly after conscription was introduced⁸¹⁴ when those who refused to fight for conscience's sake were more obvious to a generation compelled to war, that it is wholly unsurprising that the public and tribunal discourses of Middlesex manifested hostility towards the C.O. There are examples within Middlesex of each of the four types of hateful discourse as identified by Bibbings: the C.O. as despised, cowardly, deviant and treacherous. Each of these ways of referring to C.Os. is found in the *Middlesex Chronicle's* satirical poem, 'Objections Conscientious'. What is important about this poem is that it is an example of how satirical verse was used to demean the C.O., a writing form that does not feature in the history of British conscientious objection. As a means of further denigrating the C.O., the *Chronicle* eulogised the civilian warrior who had done his manly Christian duty and was worthy of citizenship. With regards to the tribunalists, there are examples of where the Appeal and local tribunals spoke in bellicose, suspicious and condescending ways to absolutist C.Os., with some of the most aggressive cross-examinations being conducted by the Heston-Isleworth and Hendon Local Tribunals. Though it cannot be concluded on partial evidence that all hearings with absolutists were characterised by animosity, the evidence

⁸¹³ TNA MH 47/121/8: press cutting: 'Enfield Town Tribunal New: A Minister-Labourer' (August 1916). The name of the newspaper is not preserved in the fragmentary cutting that has survived.

⁸¹⁴ Kennedy, 'Public Opinion and the Conscientious Objector', p. 108.

that does exist shows how low the dialogue could sink. The word sacrifice featured significantly in the tribunalists' discourse, for they often asked C.Os. what sort of sacrifice they had made or were prepared to make. It was a question that the Appeal Tribunalists asked of themselves with the conclusion that their work as tribunalists had been a sacrifice. As for the C.Os., their language consisted of a wide range of ideas, but with a few fundamental points of similarity, whether they were theistic or non-theistic religionists, or non-religionists. Their dialogue with the tribunals began when they defined what sort of objector they were. One feature of this language of self-definition which has not received attention within the historiography is how in some cases the C.O. defined himself as an absolutist, but only in the sense that he was absolutely opposed to working with the military in any form, but was nevertheless prepared to do work of national importance. Those with religious convictions regarded themselves as having an allegiance to the person and teachings of Christ that superseded the demands of the Government with some going so far as to regard themselves as 'in the world' but not 'of it'. Their principle ethics were love for all humankind and the view that all human life was sacred. Some recognised that they had Christian brethren among the German Army and were not prepared to commit spiritual fratricide. The C.O's. discourse undermined the idea of the Christian soldier by arguing that the real struggle was with spiritual darkness rather than with flesh and blood. Some refused to have their life's vocation of serving God disrupted. The language of martyrdom also featured with some appellants regarding themselves as suffering for the cause of peace with the promise of divine reward as their compensation. The Middlesex archives provide a rare example of a Buddhist objector, Frank Balls, who had to go to great lengths to explain what Buddhism was, that the form of Buddhism he followed was pacifist and that he

was genuinely a Buddhist. Balls' language was therefore theological and in purpose one of proof. C.Os. varied in their attitude to the amount of proof they felt obliged to give. C.Os. also opposed involvement in the War on political and moral grounds. What underlies the religious and non-religious objectors' views is a humanitarianism that sought to avoid harming other humans. This chapter has also highlighted the way in which C.Os. and their supporters were prepared to criticise the Appeal Tribunal in their correspondence. Finally, it is important to recognise that C.Os. sought exemption also on grounds other than conscience.

The overall lesson learned from the study of the Middlesex discourses is that they were effective in achieving their purposes for the most part. If the aim of the public and tribunal discourses was to undermine the sense of self-respect that the C.Os. had, they often had their desired effect. In most cases, C.Os. who appealed achieved some form of exemption that was more generous than the one awarded by their local tribunal, though often it was not the sort of exemption that they wanted. Another way of understanding the interface of these different discourses is that they represented the competitive interaction of two worldviews: that of the social contract with the obligation placed upon the individual to play his or her part and the right of the individual to assert the primacy of his conscience over and above his social obligations. Another line of interpretation is to regard the conflict as the consequence of different understandings of reality. For the public and the tribunalists, reality was the world of the here and now with the emergencies and exigencies of war pressing down upon them. For the religious C.Os., the greater reality was divine, communicated through the teachings of Christ or Buddha, or another spiritual teacher. For the moralist and the political objector, it was

the abstraction of humanity with the attendant rights to life and freedom from capitalism that ignited their pacifism. It was also an argument over what constituted the sacred: was the soldier the Christian warrior with the holy duty to take life in defence of his country, or was all life sacred whether in a religious or humanitarian sense? None of the debates was ever conclusive for neither side was convinced of the others' argument. With the end of the War, the debate was pushed to one side, though only to be re-opened with far less acrimony in 1939. What had happened between 1916 and 1918 was that British society had been faced with an unprecedented challenge: what to do with the approximately 16,500 conscientious objectors who refused to bear arms. That conscientious objectors were allowed to present their cases for the most part within a formal tribunal setting reveals a measure of official tolerance within British society despite the often intolerant, intemperate and sometimes violent language used and acts committed against C.Os. by society's spokesmen, its tribunalists and people.

Chapter Five: Sir Herbert Nield: A Case Study of a Tribunalist

Introduction

The present chapter is an unprecedented biographical study of an individual tribunalist. The subject is Herbert Nield who had the highest public profile of the tribunalists serving Middlesex and one of the highest among tribunalists nationally. It is impossible to judge the reputation of the tribunalists through one biographical study, but Nield's life and work give pause for thought regarding the truth of the accusations made by the opponents of the tribunal system. Nield was an upper middle-class, right-wing patriot and Germanophobe who co-chaired an Appeal Tribunal that dismissed most appeal cases by conscientious objectors. On the face of it, the accusations of prejudice seem true. However, he was neither a War Office puppet, nor an apologist for all aspects of the Government's conscription policies. Through his work as a Tribunalist and as an MP, he proved to be a defender of the liberties of the tribunals to do their work without interference and a defender of the freedoms of certain classes of appellant. Nield's biographical data therefore is an invitation to further studies of individual tribunalists in order to understand better the nature of those volunteers whose contribution to the war effort was to endure the unrelenting pressures of tribunal work.

A Basic Outline of Nield's Life

The chronology of Nield's life is provided by his obituary in *The Times*.⁸¹⁵ When Nield was appointed as a Tribunalist, he was, as Gregory describes most tribunalists to have been, 'locally prominent and reliable'.⁸¹⁶ Nield did not originate from Middlesex, but was a Yorkshireman by birth, having been born in Saddleworth on 20 October 1862. He

⁸¹⁵ 'Sir Herbert Nield, K.C.: A "Die-Hard Conservative"', *The Times* (12 October 1932), p. 7.

⁸¹⁶ Adrian Gregory, *Military Service Tribunals*, p. 182.

qualified as a solicitor in 1885, was called to the Bar in 1895 and took silk in 1913. His connection to Middlesex came when he was elected as the Conservative/Unionist MP for Ealing at the General Election of January 1906 with a modest majority of 1279 votes,⁸¹⁷ yet he retained that seat until 1931. From 1909, Nield served as the Deputy Chairman of the Middlesex Quarter Sessions and in 1912, he was appointed Deputy Lieutenant of Middlesex. Nield retained his links with Yorkshire and was in 1917 appointed the Recorder of York. As a reward for his wartime services, Nield was knighted in 1918 and became a member of the Privy Council in 1924. His work with the Middlesex Appeal Tribunal began in March 1916 and he served on it until early 1919 when the tribunal system closed.

Toryism, Beer and Discipline

The press provide an insight into Nield's striking appearance and his colourful personality. The *Yorkshire Post and Leeds Intelligencer*, described Nield in its obituary as possessing a 'sturdy, stocky figure', as 'dapper' and as having a 'pleasant and slightly rubicund face' that 'radiated cheerfulness.'⁸¹⁸ Lest one think that a newspaper local to Yorkshire might treat a native of Saddleworth over-generously, 'dapper' and 'sturdy' were the conclusions also of the *Northern Whig*, a newspaper hardly likely to praise a die-hard Tory.⁸¹⁹ It was Nield's 'truculent and uncompromising' approach to 'public controversy' that caught the attention of the *Nottingham Evening Post*.⁸²⁰ Another journalist with the *Nottingham Evening Post* described Nield as 'a stern uncompromising Tory of the old school' who maintained an 'undisguised hostility' to

⁸¹⁷ 'Essex Middlesex General Election', *Exeter and Plymouth Gazette* (19 January 1906), p. 6.

⁸¹⁸ 'Sir Herbert Nield', *Yorkshire Post and Leeds Intelligencer*, (12 October 1932), p. 4.

⁸¹⁹ 'A Tory of Tories', *Northern Whig* (12 October 1932), p. 2.

⁸²⁰ 'Echoes from Town', *Nottingham Evening Post* (12 October 1932), p. 4.

rapprochement with other political parties. Hostility could sometimes turn to confrontation. W. H. Ayles, the Labour MP for Bristol North, appealed in a Commons' debate for complete disarmament, and Nield who had denounced the Peace Party during the debate, was reported as having been involved in 'a scene' with Ayles later.⁸²¹ Yet despite his obduracy, Nield maintained 'pleasant' relationships with individual opponents and was a friend of William Graham, the socialist president of the Board of Trade.⁸²² Stern he may have been, but Nield was something of an extrovert who championed the social life of Unionism through his chairmanship of the Council of the National Union of Conservative Associations and of the Association of Conservative Clubs.⁸²³ According to an article in the *Yorkshire Post and Leeds Intelligencer* written in honour of Nield, this son of York's Anglo-centrism was defined quintessentially as his 'belief in beer'.⁸²⁴ In its obituary, the *Northern Whig* concurred, for as 'an ardent advocate of social freedom', he opposed continuing restrictions to drinking hours.⁸²⁵ Accurate therefore was the nickname for Nield of 'Old Cups', a moniker given by one of his regular neighbours in the Commons, the prohibitionist Lady Astor.⁸²⁶

Nield the advocate of liberal drinking hours was nevertheless a disciplinarian concerning criminals and prepared to patronise right-wing paramilitary forces during elections. Nield lamented the rise in juvenile crime and nostalgically looked back to a golden age of deference he called 'pre-War parental control'.⁸²⁷ In July 1932, Justice

⁸²¹ 'Motion to Abolish the Army', *Taunton Courier and Western Advertiser* (18 March 1931), p. 2.

⁸²² 'Echoes from Town', *Nottingham Evening Post* (12 October 1932), p. 4.

⁸²³ 'Death of a Well-Known Conservative', *Exeter and Plymouth Gazette* (14 October 1932), p. 14.

⁸²⁴ 'House of Commons Personalities. LXI.-Sir Herbert Nield', *Yorkshire Post and Leeds Intelligencer* (9 September 1929), p. 8.

⁸²⁵ 'A Tory of Tories', *Northern Whig*, (12 October 1932), p. 2.

⁸²⁶ 'The Learned Old Clubs', *Yorkshire Post and Leeds intelligencer* (17 March 1931), p. 6.

⁸²⁷ 'Social Record', *Hull Daily Mail* (13 October 1925), p. 4.

Avory sentenced three bandits for stealing £32,977 from Portsmouth's Lloyds Bank to fifteen strokes each of 'the cat'. Nield approved this sentence, stating that it was 'the only way to overcome certain classes of crime' and violence had to 'be treated with violence' if there was 'no other way'.⁸²⁸ In anticipation of radical disorder at political meetings, Nield advocated in 1928 organising 'a band of lictors' to protect Conservative election meetings.⁸²⁹ In response to what the *Sheffield Independent* called 'red hooliganism', Lionel J. Hirst formed the 'Legion of the Loyalists' of '200 athletic men' to act as a 'political police force' to protect Conservative meetings during the 1931 election. Hirst was quoted as saying that the Legion would 'act as stewards' and were prepared to use their 'fists and do any amount of chucking out if necessary.' Nield was the Vice-President of this organisation.⁸³⁰

The Three Circles of Nield's Worldview

Nield's political worldview may be seen as a series of concentric circles. At the heart was his English provincialism. In the second circle lay his one nation Conservatism. The outer circle consisted of his imperialistic pride and concern for British dominance at sea. The inner circle consisted of his 'Little Englander' outlook whose sympathies according to the *Nottingham Evening Post* were with the English localities like 'an old fashioned squire' and 'a typical John Bull'.⁸³¹ The *Yorkshire Post and Leeds Intelligencer* celebrated his inward looking Englishness,⁸³² calling him a 'die-hard'.⁸³³

⁸²⁸ 'Cat Cure for Bandits: Only Way in Some Cases: Justice Avory's Lead', *Gloucester Citizen* (13 July 1932), p. 10.

⁸²⁹ 'Organising Chuckers Out', *Dover Express* (16 November 1928), p. 9.

⁸³⁰ 'Election Novelty', *Sheffield Independent* (14 October 1931), p. 8.

⁸³¹ 'Sudden Death of Sir Herbert Nield K.C.: A Typical John Bull', *Nottingham Evening Post*, (11 October 1932), p.1.

⁸³² 'House of Commons Personalities: LXI-Sir Herbert Nield', *Yorkshire Post and Leeds Intelligencer*, (9 September 1929), p. 8.

who had ‘a natural suspicion of the foreigner’ and ‘no sympathy with the idea the foreigner has enriched the country’s life.’⁸³⁴ Nield therefore was sensitive to what he perceived to be malign external influences on British politics and economic well-being. He believed the General Strike was the ‘work of miners of the Russian Soviet’ rather than an expression of British working class discontent.⁸³⁵ In October 1930, when binding over two Irish men for two years, Nield opined that the 2000,000 unemployed in Britain should not be ‘competing with labour from Ireland.’⁸³⁶

One nation Conservatism comprised the second circle and before and after he became an MP, Nield worked at the grass roots level to promote both causes by rousing activism through letters to the press and speeches. In a letter to the editor of the *London Standard* in 1895,⁸³⁷ Nield urged all freeholders, particularly those in the City of London and the Metropolitan Constituencies, to record their votes, support the Union and not to assume that the national election was won. After the Conservative defeat in the 1906 election, Nield was galvanised along with his fellow Conservatives into seeking an explanation for their loss. The ‘free-fooders’ blamed tariff reform and the Chamberlainites blamed trade unionist fears that the Government was going to import cheap Chinese labour into the Transvaal to reconstruct the region after the Boer War.⁸³⁸ Nield’s analysis was that the Conservative Party had been lacking both logistically and ideologically. He expressed this view at a conference for junior Unionists at Hull’s

⁸³³ Ibid,

⁸³⁴ Ibid.

⁸³⁵ ‘Only British in Name: Sir H. Nield’s Outburst at Club’s Conference’, *Western Morning News*, (12 June 1926), p. 7.

⁸³⁶ ‘Unfair Irish’, *Falkirk Herald*, (29 October 1930), p. 7 and ‘Not O.K. for U.K.’, *Yorkshire Evening Post*, (25 October 1930), p.8.

⁸³⁷ ‘To the Editor of the Standard’, *London Standard* (23 July 1895), p. 2.

⁸³⁸ Ibid.

Grosvenor Hotel in November 1907. According to Nield, the recent electoral failures had been caused by a lack of preparation during the years between the elections and that two things were necessary: a systematic canvas of every voter which would include an invitation to attend Conservative meetings and the democratisation of Conservative Associations so that blacksmiths were regarded as valuable as doctors.⁸³⁹ The opening of Conservative associations to people of all classes, a central tenet of the more successful Primrose League,⁸⁴⁰ would hopefully prove to be an antidote to the spread of Labour support among traditional working class Tory strongholds.⁸⁴¹

The third circle was Nield's imperialism. According to the *Western Morning News*, Nield envisaged the Empire as 'a glorious programme' of a completely free-trading bloc that excluded foreign goods.⁸⁴² Old Imperialism had pursued free trade outside the Empire, but Nield's protectionism reflected New Imperialism's increasing anxiety over economic rivals during the last quarter of the nineteenth century. The New Imperialists had concluded that Britain could no longer give free access to its markets to nations that taxed British exports.⁸⁴³ Despite calls for protectionism by Joseph Chamberlain, the Secretary of State for the Colonies from 1895-1901 and pressure groups such as the 'Fair Trade League', the idea of the Empire as protected by tariffs and a unified trading system never became official policy.⁸⁴⁴ Balfour, the Prime Minister, preferred to pursue

⁸³⁹ 'A Wise and Witty MP: Mr Nield and the Junior Unionists: Contagious Enthusiasm', *Hull Daily Mail* (8 November 1907), p. 3.

⁸⁴⁰ John Colville, *The Churchillians* (London: Weidenfeld and Nicolson, 1981), p. 18.

⁸⁴¹ John Charmley, *A History of Conservative Politics Since 1830s* (London: Palgrave, 2008) p. 101.

⁸⁴² 'Government by Fraud: A K.C.'s Scathing Indictment', *Western Morning News* (19 May 1930), p. 4.

⁸⁴³ Bernard Porter, *The Lion's Share: A Short History of British Imperialism 1850-2004* (London: Pearson, 2004), p. 82.

⁸⁴⁴ P. J. Cain and A. G. Hopkins, *British Imperialism: Innovation and Expansion 1688-1914* (London: Longman: 1993), p. 30

a policy midway between free trade and tariffs.⁸⁴⁵ No other political party supported it. Industry was divided over whether it was a good or poor idea and City financiers saw no advantage to tariffs.⁸⁴⁶

Imperial paternalism, the view that the Empire was a means by which colonies might be civilised and developed, characterised both Old and New Imperialism. Most early and mid-Victorian colonial administrators had a sense of trusteeship towards the colonised peoples of the Empire, though initially there was no definite policy as to what to do to 'improve' the indigenous peoples. The Colonial Office 'Whigs' eventually decided to leave the civilising to Christian missionaries whilst reserving for themselves the power to arbitrate between the 'improvers' and the 'exploiters'.⁸⁴⁷ Nield's imperial paternalism was expressed through a commercial metaphor: the British were landlords in charge of a great estate whose natural desire would be to improve the property.⁸⁴⁸ Such a statement implies the view that the British were not 'civilising' colonised peoples only for altruistic reasons, but that there were material profits to be had from such an enterprise.

An Edwardian Militarist

Free trade and the propagation of civilisation were presented by the British as their Empire's *raison d'être*, but British military strength was its final guarantor. Edwardian Britain was a militarist society, but as demonstrated in chapter one, it eulogised the volunteer rather than impose national service and conscription. To inspire men to

⁸⁴⁵ Charmley, *A History of Conservative Politics*, p. 74.

⁸⁴⁶ Cain and Hopkins, *British Imperialism*, (London: Routledge, 2001), p. 31

⁸⁴⁷ *Ibid.*, p. 24.

⁸⁴⁸ 'A Wise and Witty MP: Mr Nield and the Junior Unionists: Contagious Enthusiasm', *Hull Daily Mail* (8 November 1907), p. 3.

volunteer, as well as instil discipline in young men, Edwardian militarism emphasised the importance of training organisations such as the Lads' Brigades. Nield subscribed to this British form of militarism and was suspicious that the pre-War Liberal government was neglecting voluntary organisations in order to introduce conscription. On 8 May 1911, he asked a series of questions of the War Office about the Lads' Brigade. First, was it true that the War Office was discontinuing its policy of 'issuing carbines and camp equipment to lads' brigades' and forbidding active Army officers from inspecting lads' brigades in uniform unless such brigades became 'cadet corps affiliated to the Territorial Associations?' Second, had these decisions been made 'due to the failure of the Territorial Army to obtain sufficient recruits' and 'an intention of the Department or the Government to introduce compulsory service without a mandate from the electorate?'⁸⁴⁹ The Under-Secretary of State, Colonel Seeley confirmed without justifying the Government's decisions that the issue of equipment and formal inspections by Army officers had been discontinued, but that it was not its intention to introduce conscription.⁸⁵⁰ When Nield two days later asked the Parliamentary Private Secretary, Francis Acland for reasons why the supply of equipment and formal inspections had ceased, Acland informed him that the Government did not consider it justifiable to give military aid to organisations that maintained no military connection.⁸⁵¹

Traditionally Britain's most serious colonial rivals had been France and Russia, but with the Entente Cordiale (1904) and the Anglo-Russian Convention (1907), relations with

⁸⁴⁹ 'Lad's Brigades (War Office)', H.C. Deb. 8 May 1911 vol. 25 c. 857.

⁸⁵⁰ Ibid.

⁸⁵¹ 'Lad's Brigades (War Office)', H.C. Deb. 10 May 1911 vol. 25 c. 1213.

these two nations had warmed.⁸⁵² International waters nevertheless remained very troubled. When Nield became an MP in the January to February 1906 election, the Russo-Japanese War (1904-5) had only recently finished and the First Moroccan Crisis (March 1905-May 1906) was in full swing, which to the British was symptomatic of Germany's *Weltpolitik*.⁸⁵³ 1906 was also the year that the German Reichstag passed an amendment to its 1900 Naval Law to build six new cruisers and 48 additional torpedo boats.⁸⁵⁴ The British press sensationally reported on the growing German Navy and the Liberal government and Admiralty responded vigorously with a shipbuilding programme and the construction of the Rosyth naval base.⁸⁵⁵ It is important not to exaggerate the sense of threat that the British Government felt at the rise of Germany's fleet. Stevenson makes a distinction between British public opinion that was convinced that the German Navy was a potent threat and the Government and Admiralty who realised that after 1912 German shipbuilding was slackening.⁸⁵⁶ Clarke notes the Admiralty's confidence that British naval preponderance would be sustained which proved to be true: between 1898 and 1905, Germany had increased its battleships from thirteen to sixteen, whereas the British had increased theirs from twenty-nine to forty-four.⁸⁵⁷

Nield's view, however, was the popular view sharpened by his suspicions that the Liberal Government was lukewarm in its commitment to British naval supremacy.

⁸⁵² James Joll, *Europe Since 1880: An International History* (London: Penguin, 1990), pp. 98-101.

⁸⁵³ *Ibid.*, p. 98.

⁸⁵⁴ *Ibid.*

⁸⁵⁵ *Ibid.*, p. 100.

⁸⁵⁶ Stevenson, *1914-1918* (London: Penguin, 2012), p. 34.

⁸⁵⁷ Christopher Clark, *The Sleepwalkers: How Europe Went to War in 1914* (London: Penguin, 2013), p. 150.

During his first three years in Parliament, Nield obsessively held the Government to account over the Navy. From 1906 to 1908 inclusive, Nield made 219 contributions to Commons' debates whether in the form of a question or a speech. Of those 219 contributions, 66 concerned the Royal Navy and its German rival, which amounts to 30% of his total Commons contributions during those three years.⁸⁵⁸ His questions and speeches ranged over diverse matters from the strengthening of the armament of 'County Class' Cruisers⁸⁵⁹ to improvements to the ventilation of British warships.⁸⁶⁰ On five occasions between 1907 and 1911, Nield asked in the Commons questions regarding German naval construction and policies.⁸⁶¹ Despite the 1909 People's Budget, which utilised progressive taxes to fund naval expansion,⁸⁶² Nield remained distrustful of the Liberal Government's naval policy. In January 1914 the *Manchester Courier* reported Nield's opinion that the greatest danger was not so much the fleets of rival global powers, but the Liberal Government, or 'Little Navy Party's' threatened reduction of the Fleet.⁸⁶³

Support for the War

Nield clearly envisaged the possibility of war with Germany, but probably like his fellow countrymen and women did not consider it 'an immediate contingency.'⁸⁶⁴ This opinion was plausible within the context of the history of recent diplomacy. In the years

⁸⁵⁸ hansard.millbanksystems.com/people/sir-herbert-nield (last accessed 23 October 2016 at 21:01).

⁸⁵⁹ 'Armament of the County Class Cruisers', H.C. Deb. 7 May 1906 vol. 156 c. 949.

⁸⁶⁰ 'Ventilating Arrangement of Battleships', H.C. Deb. 3 June 1907 vol. 175 cc. 255-256.

⁸⁶¹ See 'German Shipbuilding Programme', H.C. Deb. 10 June 1907 vol. 175 c. 1050; 'German Shipbuilding Programme', H.C. Deb. 26 August 1907 vol. 182 c. 122; 'German Naval Policy', H.C. Deb. 26 August 1907 vol. 182 c. 148; 'German Destroyers', H.C. Deb. 29 July 1908 vol. 193 cc. 1478-9; 'British and German Battleships', H.C. Deb. 3 April 1911 vol. 23 cc. 1961-3W.

⁸⁶² Stevenson, *1914-1918*, p. 21.

⁸⁶³ 'Of Crisis. Cabinet Not Playing the Game. Mr Cyril Potter's Charge', *Manchester Courier and Lancashire General Advertiser*, (23 January 1914), p. 8.

⁸⁶⁴ Marwick, *The Deluge*, p. 69.

between the First Moroccan Crisis (March 1905-May 1906) and the final calamity of July 1914 there had been a number of international crises, but war between the Great Powers had been averted because of disinterest on the part of one or more major power in the matter concerned. France's ally, Russia, had no interest in France's ambitions in Morocco and did not consider itself strong enough militarily to stand up to Germany and Austria during the Bosnian Crisis. During the Balkans Wars, no great power wished to intervene on behalf of the self-aggrandising ambitions of any of the warring states.⁸⁶⁵ Sir Edward Grey's success in organising a conference of ambassadors in response to the Balkans Wars gave the impression that the Concert of Europe was still capable of resolving disputes peacefully.⁸⁶⁶ Though Europe's two rival alliance systems had coalesced by 1914, 'neither side saw war as inevitable,' though 'both were increasingly willing to contemplate it.'⁸⁶⁷

When Archduke Franz Ferdinand was assassinated in Sarajevo on 28 June 1914, the British Government remained confident that peace could be maintained and that if a European war did erupt, Britain would remain neutral. Sir Edward Grey took the view that in the event of an Austrian *demarche* against Serbia, the conflict could be resolved, or at least prevented from growing into an Austro-Russian conflict through the summoning of a concert of Britain, France, Germany and Italy to mediate.⁸⁶⁸ Asquith took a more pessimistic view when he confided to Venetia Stanley that 'a real

⁸⁶⁵ Ibid., p. 180.

⁸⁶⁶ Ibid.

⁸⁶⁷ Stevenson, *1914-1918*, p.10

⁸⁶⁸ Clark, *The Sleepwalkers*, pp. 490-492.

Armageddon' was about to engulf the Continent, but was confident that the British would remain 'spectators'.⁸⁶⁹

The precise moment Nield realised that war with Germany was coming is uncertain.

Nield's contributions to Commons' debates in July 1914 mirror the House's preoccupation with domestic and imperial matters rather than the European crisis.⁸⁷⁰

The foreign secretary Edward Grey's first statement to the House regarding the Austro-Serbian confrontation came as late as July 27 in which he expressed the Cabinet's hope that a Concert of Powers might still meet and find a peaceful resolution.⁸⁷¹ It is certain that by 29 July Nield had come to the firm opinion that conflict was inevitable for it was on that day that the Conservative Party began to lobby for a declaration of war.⁸⁷² The right-wing press also came out in favour of military action.⁸⁷³ The Liberal Cabinet nevertheless remained firmly opposed to intervention⁸⁷⁴ whilst Grey on 30 July continued to declare to the House that his government's policy remained one of pursuing in close contact with the other Powers 'the one great object...European peace'.⁸⁷⁵ Diplomatic events moved quickly, however, and most minds changed as quickly. By the end of 2 August, the British Government had chosen to intervene. Grey informed the French ambassador that the Royal Navy would protect French shipping and the French north coast from a German attack.⁸⁷⁶ The Cabinet also agreed that

⁸⁶⁹ Asquith to Venetia Stanley, 30 June 1914, in Michael and Eleanor Brock (eds.), *H. H. Asquith: Letters to Venetia Stanley* (Oxford: Oxford University Press, 1985), p. 93.

⁸⁷⁰ hansard.millbanksystems.com/people/sir-herbert-nield/1914 (last accessed 26 October 2016, 10:11).

⁸⁷¹ 'Austria and Servia', HC Deb 27 July 1914 vol. 65 cc. 936-9.

⁸⁷² Clark, *The Sleepwalkers*, p. 541.

⁸⁷³ Ibid.

⁸⁷⁴ Ibid., p. 542.

⁸⁷⁵ 'International Situation', H.C. Deb. 30 July 1914 vol. 65 c. 1574.

⁸⁷⁶ Clarke, *The Sleepwalkers*, p. 543.

German violation of Belgian neutrality would compel a bellicose response.⁸⁷⁷ When war was declared on Germany on 4 August, Nield was part of that *union sacree* that set its face on victory and which encompassed the political spectrum from the most imperialistic of Unionists to many Irish nationalists.⁸⁷⁸ However, agreement with a policy is not synonymous with enthusiasm for it and whether Nield was enthused by the War we do not know for no record of Nield's reaction exists as far as we can tell. Most likely the sturdy, dignified Nield, now fifty-one years old, was stirred not so much by joy at the War's commencement, but like many of his fellow-Englishmen, by a sense of stoic duty⁸⁷⁹ and possibly a measure of apprehension mixed with pride for as we shall see, his son, Wilfred, was of military age.

Nield the Propagandist

On the declaration of war, the Government quickly set about the task of justifying its decision. The very best of willing minds were deployed by the War Propaganda Bureau to present the pro-war case.⁸⁸⁰ Oxford University's historians took a long-term view of the conflict's causes and in their pamphlet, *Why We Are At War: Great Britain's Case*, blamed 'a century of German aggression and duplicity'.⁸⁸¹ The War was also presented as a defence of civilisation by the British press. The liberal *Daily News*, for example,

⁸⁷⁷ Lord Crewe to George V reporting on cabinet meeting of 2 August 1914, 6:30 pm, in J. A. Spender and Cyril Asquith, *Life of Herbert Henry Asquith* (2 vols., London, 1932), vol.2, p. 82; John Morley, *Memorandum on Resignation*, August 1914 (London, 1928), p. 5.

⁸⁷⁸ Leonard Kreiger, 'Britain's Union Sacree', in Jean-Jacques Becker and Stephane Audoin-Rouzeau (eds.), *Les Societes europeenes*, (Nanterre: Université Paris X, 1990), pp. 39-52; Samuel R. Williamson, *The Politics of Grand Strategy: Britain and France Prepare for War 1904-1914* (Cambridge MA, 1969), pp. 357-60.

⁸⁷⁹ Clarke, *The Sleepwalkers*, p. 553.

⁸⁸⁰ Robb, *British Culture*, p. 97.

⁸⁸¹ *Ibid.*, p. 99.

described the struggle as one on behalf of European civilisation and for ‘the emancipation of Germany’ and the ‘liberties of Europe’.⁸⁸²

Nield played his part in arguing the case for war and encouraging young men to volunteer. He articulated the official views of the War and popular prejudices against Germany when in March 1915 he gave a recruitment speech at the Drill Hall in Keynsham in Somerset. Nield regarded British civilisation as superior and declared that Britain was the only country to have kept the voluntary system, something of which he and his audience ought to be proud. His appeal to eligible men was made on the basis of their having benefited from their country’s freedom of speech, thought and action, something that German youth could not say of their nation, and that therefore it was their duty to serve a country that had given them so much. He also presented the War as a consequence of Germany’s long-term plans and machinations. Its colonial ambitions were spurred by envy of Britain’s empire and proven record of being able to rule others well. Typically, Nield referred to Belgium’s brave self-defence and the atrocities that had been perpetrated against its civilians by German troops as further reasons for British men to go and fight. His speech ended with a measure of poetic rhetoric, for he described the current noble struggle as greater in terms of men and materiel than anything managed by the classical ancients.⁸⁸³ The press reported further occasions when Nield exhorted men to enlist. On 17 May, Nield visited Ashton-Under-Lyne to deliver a recruitment speech.⁸⁸⁴ On 29 September, he spoke in Portishead at a meeting

⁸⁸² *Daily News* (5 August and 8 August 1914), quoted in Marwick, *The Deluge*, pp. 87-88.

⁸⁸³ ‘Recruiting at Keynsham’, *Western Daily Press* (9 March 1915), p. 5

⁸⁸⁴ Untitled, *Manchester Evening News* (17 May 1915), p. 3.

of the Committee for Recruitment and War Savings for North Somerset.⁸⁸⁵ On 7 October, he was the principal speaker at 'a big recruitment meeting' at Nottingham's Theatre Royal.⁸⁸⁶ *Hansard* also records that on 9 September 1914, he elicited in the Commons from Herbert Samuel, the Postmaster General, his promise that Kitchener's famous poster appeal for volunteers would be displayed on the side of post vans in the way they were already displayed on taxi cabs.⁸⁸⁷

Nield played his part in attempting to ensure the success of the Derby Scheme in Middlesex. At the end of October 1916, the Duke of Bedford, Middlesex's Lord Lieutenant, invited all of Middlesex's county councillors, JPs and battalion commanders to a meeting at the Guildhall to 'consider the best means of promoting recruitment in Middlesex'.⁸⁸⁸ After explaining who was and who was not eligible to volunteer under the Derby Scheme to his audience, Bedford set out 'new methods'⁸⁸⁹ to make the Derby Scheme successful. Bedford wished to combine the Derby Scheme's policy of attestation with the thorough canvassing of all eligible men to ensure that each one came forward to attest. Nield, who already had experience of thorough canvassing of Tory voters at election time, wholeheartedly approved and it was he who moved the unanimously adopted resolution to pledge loyal support for the Derby Scheme.

Antipathy for Pacifism

⁸⁸⁵ 'Meeting at Portishead', *Western Daily Press* (30 September 1915), p. 3.

⁸⁸⁶ 'The Royal Navy Division', *Nottingham Evening Post* (6 October 1915), p. 5.

⁸⁸⁷ 'Transfer of Ex-Officers from Police', H.C. Deb. 9 September 1914 vol. 66 c. 571.

⁸⁸⁸ 'TO WIN THE WAR. King's Message to Lords-Lieutenant Lord Derby's Secretary Explains Recruiting Scheme', *Manchester Evening News*, (28 October 1915), p. 6.

⁸⁸⁹ *Ibid.*

Between the years 1914 and 1916, the government regarded pacifist subversion as posing little threat to the war effort.⁸⁹⁰ Sir Vernon Kell, the director of MO 5 (g), which was the name given to the Special Intelligence Bureau after it had been integrated into the War Office,⁸⁹¹ concluded in July 1915 in his report on the Stop-the-War Committee that it was neither pro-German nor funded by German sources, and that its propaganda effect was ‘practically negligible’.⁸⁹² Nield, on the other hand, was very suspicious of organised pacifism. In the same month that Kell produced his reassuring report, Nield expressed his concern in the Commons about the Union of Democratic Control’s propaganda against recruitment and its desire to end the War on terms favourable to Germany. He wished to know whether Asquith was aware of the activity of other like-minded organisations such as the Independent Labour Party, which was disseminating anti-War literature. Nield wanted also to know whether those involved would be prosecuted and whether the Prime Minister knew of the source of these organisations’ funding. The Attorney General, Sir Edward Carson, responded on behalf of the Prime Minister. He informed Nield that Asquith was aware of the Union’s desire to bring about a peace settlement, and that he was aware of the Union’s meetings, but no reports about those meetings had been received by Government and so no action against the Union was warranted. Nield persisted by asking Carson whether he would ensure that Government representatives would attend future meetings of the Union in order to gather evidence for prosecution, but Carson refused this action for he was of the opinion

⁸⁹⁰ Christopher Andrew, *The Defence of the Realm: The Authorized History of MI5* (London: Penguin Books, 2010), p.66.

⁸⁹¹ Ibid., p. 54.

⁸⁹² Ibid., p. 66.

that it was impossible to know when and where the Unions' next meetings would be held.⁸⁹³

From 1916 onwards, pacifism became a serious concern for MI5 because of its revival in response to the introduction of conscription.⁸⁹⁴ The No-Conscription Fellowship was accused of coaching conscientious objectors for their hearings by teaching them how to present their case and putting them through mock hearings. This practice was seen as a means of converting men to the pacifist cause.⁸⁹⁵ In protest, Nield wrote to the Home Secretary in May 1916 advocating the surveillance and arrest of NCF members:

'The No Conscription Fellowship is responsible for much of the trouble the Tribunals are having-as a rule the objectors are quite young men 18-22 and they appear to me to be carefully coached and induced to oppose the working of the Act. I venture to hope that you will have these men very carefully watched and that you will not hesitate to proceed against them directly you have proof of their activities.'⁸⁹⁶

In contrast to Nield's suspicion, Herbert Samuel appeared to be sanguine. He wrote back that according to the Cabinet and the War Office, it was legal to encourage men to seek exemption on grounds of conscience, though of course it was illegal to advocate the breaking of the law.⁸⁹⁷ However, behind the scenes, the secret service was taking no chances for a month later, Major Victor Ferguson of MI5's G Branch agreed to Special Branch officers raiding the No-Conscription Fellowship and the National Council Against Conscription's London headquarters and seizing over two tons of documents with a view to prosecution. Between June 1916 and October 1917, MI5 investigated 5,246 individuals who were suspected of subversive pacifism. However, unlike Nield

⁸⁹³ 'UNION OF DEMOCRATIC CONTROL', H.C. Deb. 19 July 1915 vol. 73 cc. 1161-3.

⁸⁹⁴ Andrew, *The Defence of the Realm*, p. 94

⁸⁹⁵ Rae, *Conscience and Politics*, p. 110.

⁸⁹⁶ TNA HO 45/10801/307402: 'WAR: Anti-Conscription campaigns by various bodies'.

⁸⁹⁷ Rae, *Conscience and Politics*, p.111.

whose suspicions were probably not allayed by Samuel's confidence, MI5 found no evidence that anti-conscription messages were having much effect probably because of the very small numbers of people involved.⁸⁹⁸

Twelve years after the end of the War, Nield retained the opinion that those who for reasons of conscience refused to fight or to have anything to do with the war effort were traitors. In his criticism of the Government's disarmament programme, Nield called the ministers 'anti-patriots' and blamed the policy on the influence of 'several conscientious objectors in the Government' whom he described as having 'shirked their duty in war' and 'who never did anything to help the country in its difficulties, but did a very great deal to embarrass it.'⁸⁹⁹

Nield and the Germans

Nield detested the German military for its war crimes and resented the presence of enemy aliens in Britain. Nield's 'Germanophobia' was typical of pre-War and wartime Britain. Historically, Britain has been a popular choice of destination for German migrants but the numbers arriving in Britain in the 19th and early 20th centuries caused consternation. Most of those who came did so for economic reasons, though some came as political refugees fleeing the Anti-Socialist Laws of 1878.⁹⁰⁰ According to the 1911 Census, the number of Germans living in Wales and England was a sizeable 53,324,⁹⁰¹

⁸⁹⁸ Andrew, *The Defence of the Realm*, pp. 94-95.

⁸⁹⁹ 'A K.C.'s Scathing Indictment', *Western Morning News* (19 May 1930), p. 4

⁹⁰⁰ Panikos Panayi, *The Enemy in Our Midst: Germans in Britain During the First World War* (New York and Oxford: Berg, 1991), p.14.

⁹⁰¹ *Ibid.*, pp. 9-14.

with about half setting up home in North London and the East and West Ends.⁹⁰² A thousand Germans took up residence in Nield's home town of Hampstead.⁹⁰³ The Germans were victims of a general 'anti-alien mentality',⁹⁰⁴ but rich German Jews specifically were the target of a pervasive anti-Semitism and because of the diplomatic and naval rivalry with Germany, German immigrants came under suspicion of being spies and a Fifth Column for a future invasion.⁹⁰⁵

The 'smouldering fire' of anti-Germanism which 'occasionally came alight' in the pre-War years became an inferno in 1914⁹⁰⁶ and turned into spontaneous violence against resident Germans and British citizens with German names.⁹⁰⁷ One cause of this was the stories of atrocities committed by German troops in Belgium, the most infamous of which was the destruction of the beautiful medieval city of Louvain.⁹⁰⁸ These were reported 'intermittently' during the first eighteen months of the War and provoked 'indignation'.⁹⁰⁹ A more important reason was the horrors the British experienced themselves at German hands. According to Gregory, it was the 'indiscriminate use of naval mines, the bombardment of coastal towns, the emergence of submarine warfare and the beginnings of aerial bombardment of civilians' that were the 'central British definitions of frightfulness'.⁹¹⁰ The climax to British outrage came in May 1915 as a response to the Germans' use of chlorine gas for the first time at Ypres and the sinking

⁹⁰² Ibid., p. 17.

⁹⁰³ Ibid., p. 19.

⁹⁰⁴ Ibid., p. 27.

⁹⁰⁵ Ibid. p. 27.

⁹⁰⁶ Ibid.

⁹⁰⁷ Robb, *British Culture*, p.8.

⁹⁰⁸ See e.g., 'THE SACK OF LOUVAIN', *The Times* (22 September 1914), p. 7.

⁹⁰⁹ Gregory, *The Last Great War*, p. 46.

⁹¹⁰ Ibid., p. 46.

of the British merchant ship *Lusitania* with the loss of two thousand lives.⁹¹¹ Hundreds of rioters in what became known as the ‘Lusitania Riots’ attacked Germans, those suspected of being Germans and their property in what Gregory has called ‘The biggest and most widespread outbreak of racial rioting and civil disorder in twentieth-century Britain’.⁹¹² Gregory is of the opinion that the intensification of anti-Germanism into mass violence during the War was initially an exclusively working class phenomenon, but it spread to the middle class and eventually developed into ‘a more generalised attack on unpopular minorities’.⁹¹³

As shall be demonstrated, Nield’s attitude was avidly anti-enemy alien and anti-alien in general. His response to enemy aliens was to press for austere legislation, internment and deportation once the War had concluded. Naturalised enemy aliens too could not be trusted because they might be harbouring secret pro-German or Austrian sympathies. Yet it is impossible to assert that Nield reviled all Germans, at least not for the first year and a half of the War. Unlike the mass of public opinion which possessed ‘an intense hatred of the German Kaiser and people’,⁹¹⁴ Nield continued to make a clear distinction in his public speeches as late as September 1915 between Germany’s rulers and the Prussians on the one hand and the general run of the German population on the other. In his recruitment speech at Keynsham’s Drill Hall in March, he referred to a visit he had made to Germany less than twelve months earlier and how he was surprised that he was now at war with the people he had met. Consequently, he looked forward to a time

⁹¹¹ Ibid.

⁹¹² Ibid, p. 235.

⁹¹³ Ibid. p. 238.

⁹¹⁴ Marwick, *The Deluge*, p. 89.

when the hierarchy that had forced the German people to war would end in that War.⁹¹⁵

On 29 September, Nield was in Portishead attending a meeting of the Committee for Recruitment and War Savings for North Somerset. As at Keynsham, Nield excused the mass of ordinary Germans, 'the ordinary German peasant' as he called them, from blame for the hostilities and portrayed them as people who had been lured into the conflict against their better judgement and interests. The blame this time he attached to Prussia in rhetoric that was violent and apocalyptic. Nield characterised 'the Prussian' as a 'brute', Prussia 'the curse of earth's existence' and the 'terrible struggle' with Prussia as 'putting into harmlessness one of the most hideous monsters that came out of the darkness of the earth.' On this terrifying note, he appealed for volunteers from Somerset and 'asked the older men and ladies to try their influence, so that young fellows might go and answer the call of their consciences.'⁹¹⁶

Though he could exculpate the German people, Nield was not prepared to do the same for the German Army. On 17 February 1915, Nield asked in the Commons whether the Government was prepared to keep a record of every act committed by the enemy which was in violation of the Hague Conventions, or violations of the law of invaded nations, and that that record be made available to the British Government and the governments of its allies. Neil Primrose, the Under Secretary of State for Foreign Affairs, promised that a statement would be prepared clarifying the Government's position on the matter.⁹¹⁷ The Government ultimately went further than a statement and established a committee to investigate the truth behind testimonies of German war crimes, the

⁹¹⁵ 'Recruiting at Keynsham', *Western Daily Press* (9 March 1915), p. 5

⁹¹⁶ 'The Emergency Campaign: Meeting at Portishead', *Western Daily Press* (30 September 1915), p. 3

⁹¹⁷ 'Breaches by Germany', H.C. Deb. 17 February 1915 vol. 69 cc. 1120-1.

conclusions of which were published in May 1915 in the Bryce Report.⁹¹⁸ Though charged with elucidating the truth about German culpability for war crimes, the Bryce Report gave official sanction to hyperbole by taking ‘the flimsiest of uncorroborated evidence’ and concluding that ‘murder, lust and pillage prevailed over many parts of Belgium on a scale unparalleled in any war between civilised nations during the last three centuries.’⁹¹⁹

With the outbreak of war with Germany and Austria-Hungary, the very serious question of what to do with foreigners and enemy nationals living in Britain naturally arose. Parliament’s response was to curtail severely the civil liberties of all aliens through the introduction of the first Aliens Restriction Act on 5 August 1914 and subsequent Orders in Counsel. It allowed the government to control the entry and exit of not only enemy aliens, but of all aliens into and out of Britain⁹²⁰ and required all Germans and Austrians resident in Britain to register with their local police station with the penalty for failing to do so a fine of £100 or six months’ imprisonment.⁹²¹ If anyone was in doubt as to what constituted a citizen and an alien, the British Nationality and Status of Aliens Act, which received royal assent on 7 August 1914, provided the definition. According to the Act, a British person was someone who had been born within the British Empire, or born of a British father, or who had been born aboard a British ship. Aliens could become citizens if they had resided at least for five years in the Empire, were of good character, spoke English well and were prepared to swear an oath of allegiance. British

⁹¹⁸ Robb, *British Culture*, p. 101.

⁹¹⁹ TNA WO 161/78: Bryce Committee Report on Alleged German Outrages, August 1915, p. 48.

⁹²⁰ Panayi, *The Enemy in our Midst*, p. 47.

⁹²¹ <http://www.open.ac.uk/researchprojects/makingbritain/1919-aliens-restriction-act> (last accessed 28 February 2016, 08:47).

women who married an alien lost their citizenship, but if she was divorced or widow, she could apply for a re-naturalisation certificate.⁹²² To regulate commercial and financial relations with enemy aliens, the trading with the Enemy Act of 18 September 1914 and the Trading with the Enemy Amendment Act of 27 November 1914 were passed. The first Act declared that ‘Any person who, during the continuance of the present state of war, trades or has before the commencement of this Act traded with the enemy shall be guilty of an offence.’ The Amendment Act introduced further legislation aimed at denying enemy aliens financial resources they might use for their nation’s war effort. For example, Section Five of the Act stated that if any British debtor owed money to an enemy alien, he or she could give that money into the custody of the Comptroller General who in turn would pay it into a trust account where it would remain until after the War when the enemy creditor would be paid. A plethora of Orders in Counsel followed on which further reduced the civil liberties of resident foreigners and enemy aliens such as freedom of habitation, movement and association.⁹²³ By July 1918 all aliens, wherever they lived, were required to hold an identity book.⁹²⁴ So reduced over time were the civil rights of aliens, that it was questionable whether those who remained free were any better off than those who had been interned.⁹²⁵

Indeed, internment was the most repressive measure of all against resident enemy aliens and one which Nield, along with the great majority of British people, vigorously supported. In reaction to the initial success of the German Armies on both Western and Eastern fronts and the real possibility of an invasion in 1914, Parliament, the press and

⁹²² Panayi, *The Enemy in our Midst*, p. 61.

⁹²³ Ibid., p. 60.

⁹²⁴ Ibid., p. 55.

⁹²⁵ Ibid., p. 60

the public clamoured for Germans and Austrians to be locked up and the Government responded with ad hoc severity.⁹²⁶ The Government declared its response on 13 May 1915 when Asquith declared that all adult males of military age (17-55) were to be interned, whilst all women and children and men over the age of fifty-five were to be repatriated. Those who sought exemption from internment could go before a tribunal. Naturalised aliens would be interned only if there was evidence to prove that they were a threat.⁹²⁷

With characteristic suspicion of what he saw as the cunning of the enemy alien, the Government's incompetence and its lack of will to deal with them, Nield challenged the Home Office over enemy aliens he believed had escaped the net. He presented his most concerted challenge in the Commons on 21 June 1917 during the time when the number of internees in Britain had been suddenly and greatly augmented by the arrival of prisoners-of-war.⁹²⁸ The basis of Nield's challenge to the Government was information he had received about alleged activities of enemy aliens at liberty as Chairman of the Middlesex Appeal Tribunal. Nield informed George Cave, the Home Secretary, that he had come across cases of tribunals that were refusing to order men to join the Army and were exempting appellants to prevent enemy aliens from securing their businesses once the appellants joined up. Nield wanted to know if the Home Secretary would intern enemy aliens attempting to appropriate business, or ensure that they were 'removed for work of national importance, under proper supervision, to distant parts of the country.' Cave asserted his confidence in the government's handling of internment and referred

⁹²⁶ Panikos Panayi, *Prisoners of Britain: German Civilian and Combat Internees during the First World War* (Manchester: Manchester University Press, 2012), p. 51.

⁹²⁷ 'STATEMENT BY THE PRIME MINISTER', H.C. Deb. 13 May 1915 vol. 71 c. 1842.

⁹²⁸ Panayi, *Prisoners of Britain*, p. 61.

Nield to the answer he had given to Sir George Reid, MP, on 11 June: ‘every case of an alien exempted from internment or repatriation’ was ‘being reviewed with the object of securing that he shall be employed on some work which is necessary or useful to the country during the War.’⁹²⁹

In addition to his interest in imprisoning enemy aliens, Nield was suspicious that internees were receiving better food rations than the run of the British population and somehow were being pampered. Though there was no widespread privation of food in Britain during the War⁹³⁰ due to compulsory rationing organised by Food Control Committees from August 1917,⁹³¹ there was sufficient short supply of certain foodstuffs by the end of 1917 to raise the question of how well fed internees were in contrast.⁹³² The truth of the matter was that as the War progressed, internees’ rations were reduced. At the beginning of 1916, internees were subsisting on 1lb of bread daily; by the end of 1918, only 9 oz of bread were permitted daily to those engaged in physical labour, whilst unemployed internees were permitted a paltry 5 oz of bread a day.⁹³³ Internees not only complained about the quantity of food they received, but also the quality.⁹³⁴ Internees nevertheless received enough calories to keep them fairly healthy as the low incidence of disease and death among them indicates, yet what food they did receive was far more limited in quantity and quality than the rest of society.⁹³⁵

⁹²⁹ ‘ENEMY ALIENS’, H.C. Deb. 21 June 1917 vol. 94 c. 1989.

⁹³⁰ Marwick, *The Deluge*. p. 231.

⁹³¹ *Ibid.*, pp. 232-234.

⁹³² *Ibid.*, p. 234.

⁹³³ Panayi, *Prisoners of Britain*, pp. 141-142.

⁹³⁴ *Ibid.*, p. 144.

⁹³⁵ Anna Braithwaite Thomas, *St Stephen’s House: Friends Emergency Work in England, 1914-1920* (London, 1920), p. 51.

This disparity in food provision was not obvious to the British public and it was on 14 February 1918 during the ‘meat famine’⁹³⁶ that Nield raised his suspicions regarding internees’ rations. He asked Cave whether steps would be taken to ensure that no enemy alien was ‘permitted to receive a greater meat ration than was allowed by the Food Controller to the public.’ Cave’s response was that the diet of interned enemy aliens had been ‘revised from time to time so as to conform with the rations recommended or ordered by the Ministry of Food’ and was at that moment ‘under reconsideration in consultation with the Ministry.’⁹³⁷

It was not only the amount of food allowed to internees that bothered Nield, but also whether money was being spent unnecessarily on their creature comforts. The Alexandra Palace Internment Camp, which had been established in North London in 1915, housed approximately 3000 civilians at any one time.⁹³⁸ Was it true, Nield inquired of the Secretary of State for the Home Department, that enemy aliens interned at the Camp had complained that the sentries’ footsteps at night were disturbing their sleep, and was it true also that ‘a quantity of coconut matting, involving considerable expense’ had been, or was about to be supplied, to the walkways of Alexandra Palace Internment Camp so that the internees might not be ‘disturbed by the tread of the guard on sentry duty at night?’ Henry Forster, the Financial Secretary to the War Office, made no apology for enabling internees to have proper sleep and replied on behalf of the Secretary of State that the matting had been ‘put down some twelve months ago.’⁹³⁹

⁹³⁶ Marwick, *The Deluge*, p. 235.

⁹³⁷ ‘Prisoners of war and enemy aliens’ H.C. Deb. 14 February 1918 vol. 103 c. 285.

⁹³⁸ Panayi, *Prisoners of Britain*, p. 88.

⁹³⁹ ‘ALEXANDRA PALACE INTERNMENT CAMP’ H.C. Deb. 25 October 1916 vol. 86 c. 1142W.

With the War's cessation in November 1918 with an Allied victory, the mood of the British press and people was one of revenge which manifested in three demands: the punishment of the Kaiser; punitive reparations from Germany; and the expulsion and future exclusion of enemy aliens from the UK.⁹⁴⁰ It was on the third matter that Nield among others placed pressure upon the Coalition Government to act swiftly. On 17 October 1918 Nield asked in the Commons if Cave would introduce 'at an early date an effective measure to prevent repatriated German subjects from being allowed to permanently reside or carry on business in the United Kingdom for a definite period of years after the conclusion of the War, and to prevent any German subject from acquiring or holding real or leasehold estate in the United Kingdom.' Cave's response was that the question of restricting aliens, particularly those from enemy countries, had been 'fully considered by a committee' and the Government would 'be ready with proposals on the subject at the proper moment.'⁹⁴¹ On 7 November 1918, Nield pointed out to Cave the incongruity of the Government's demand that Turkey expelled all Germans and Austrians as a precondition of a peace treaty whilst failing to 'get rid of Germans and Austrian civilians' from Britain whose presence was 'obnoxious to the public and, in view of the continued brutality of the Germans towards British prisoners,' was 'likely to cause a breach of the peace.' Cave replied that all German and Austrians in Britain 'who could possibly be a danger' were interned and 'all, or most of these persons' would be 'repatriated' as soon as the military situation permitted.⁹⁴²

⁹⁴⁰ Panayi, *The Enemy in Our Midst*, p. 221.

⁹⁴¹ 'ENEMY ALIENS', H.C. Deb. 17 October 1918 vol. 110 c. 330W.

⁹⁴² 'ENEMY ALIENS', H.C. Deb. 7 November 1918 vol. 110 c. 2330W.

The Coalition Government that returned to power on 14 December 1918 enacted the legislation that Nield and the Radical Right were calling for.⁹⁴³ Nield retained his seat as one of nearly four hundred Conservative MPs whose support constituted the bulk of the Coalition's majority in the Commons.⁹⁴⁴ Initially, the leader of the Coalition, Lloyd George, had sought to fight the election on the grounds of tariff reform, social reform and Irish Home Rule, but correctly gauging the mood of the country, he and the Coalition candidates chose to campaign on the basis of the deportation and exclusion of enemy aliens. Consequently, anti-Germanism dominated policy: abroad, it took the form of a *diktat* at Versailles; at home, it produced the 1919 Aliens Restriction Amendment Act.⁹⁴⁵ On the two issues of deportation and exclusion, the Act was uncompromising. According to Section Nine, 'every former enemy alien' who was in Britain at the time was to be 'deported forthwith' unless the Secretary of State on the recommendation of the advisory committee chose to grant a license to remain.⁹⁴⁶ Section Ten stated that 'No former enemy alien shall for a period of three years' after the passing of the Act 'be permitted to land in the United Kingdom either from the sea or from the air'. If any former enemy alien landed without permission, he or she could not remain without the permission of the Home Secretary and that permission was limited to three months unless renewed for the same period of time.⁹⁴⁷

The Radical Right, the press and the populace had what they wanted, but Nield, however, remained as suspicious as ever about the government's ability and will to

⁹⁴³ Panayi, *The Enemy in Our Midst*, p. 221.

⁹⁴⁴ Paul Adelman, *The Decline of the Liberal Party*, (London: Routledge, 1995), p. 29.

⁹⁴⁵ Panayi, *The Enemy in Our Midst*, p. 221.

⁹⁴⁶ 1919 Aliens Restriction Amendment Act, 9 (1)

⁹⁴⁷ *Ibid.*, 10 (1).

implement its own legislation and of the enemy alien's ability to circumvent it. On 2 March 1920, he asked the Liberal Home Secretary, Edward Shortt, whether he was aware that despite the 1919 Act, aliens were landing at Dover 'without any passport or permit' and of the 'large number of aliens' who were 'seeking to enter the country' and what 'special steps' had been taken to 'keep control of this immigration'. Shortt replied that his immigration officers were being reorganised with a view to placing them on permanent service and that the number of officers dealing with passengers had increased by an estimated '20 or more' at ports approved under the Act. Shortt informed Nield that 30 illegal aliens had been sentenced to prison and all either were subject to a deportation order or noted for deportation as soon as the opportunity occurred.⁹⁴⁸

The Death of Wilfred Nield

One more matter requires examination before this chapter passes on to a revisionist interpretation of Nield. As the tribunalists have been treated as an anonymous group rather than as individuals with their own emotional reactions to the War, critics have traditionally understood tribunalists' hostility towards appellants, in particular towards conscientious objects, in terms of cultural and class generalities such as middle class patriotism, militarism and xenophobia. What has not been considered is the extent to which those who took a hostile attitude were motivated by personal reasons such as worry over serving relatives and bereavement. Injustice in a tribunalist cannot be excused but such circumstances must explain to a certain extent some of the tribunalists' reluctance to exempt men and their hostility towards conscientious objectors who appeared to be spurious. If the predicament and fate of relatives at the

⁹⁴⁸ 'ALIENS RESTRICTION ACT', H.C. Deb. 2 March vol. 126 cc. 256-7.

front had any effect upon the tribunalists, Nield on the face of it would have been one such tribunalist, for his son, Wilfred, was badly injured in December 1915 and was killed on the first day of the Somme Campaign.

Before the War, Wilfred Nield had been preparing for a career in the Diplomatic Service and whilst in France improving his knowledge of French in preparation for the entrance examination, the War broke out and he returned to England and obtained a commission in the Royal Fusiliers, later being promoted to lieutenant in February 1915.⁹⁴⁹ Both Winchester College's online archive⁹⁵⁰ and the *Middlesex Chronicle* record that in December 1915 whilst serving in France, Wilfred Nield was seriously injured.⁹⁵¹ According to the *Chronicle*, Nield had been in the advanced fire trench during a heavy German bombardment. He had received five wounds,⁹⁵² two of which were serious. Due to the bombardment and flooding in the communications trench, he had to be kept where he was 'for some hours'⁹⁵³ before he could be stretchered to a field hospital under the cover of darkness. So serious were Nield's wounds that he was treated at the King Edward Memorial Hospital for Officers in London where he was reported as 'making favourable progress'.⁹⁵⁴ Nield recovered fully, returned to the front line in May 1916⁹⁵⁵ and participated in the Somme Campaign.⁹⁵⁶ On the morning of 1st

⁹⁴⁹ 'Nield, Wilfred Herbert Everard', at <http://www.winchestercollegeatwar.com/archive/wilfred-herbert-everard-nield/> (last accessed 17 May 2016 at 15:00).

⁹⁵⁰ Ibid.

⁹⁵¹ 'M.P.'S SON WOUNDED', *Middlesex Chronicle* (8 January 1916), p. 7.

⁹⁵² Ibid. The Winchester College record states he was 'wounded in four places'.

⁹⁵³ Ibid.

⁹⁵⁴ Ibid.

⁹⁵⁵ 'Nield, Wilfred Herbert Everard', at <http://www.winchestercollegeatwar.com/archive/wilfred-herbert-everard-nield/> (last accessed 17 May 2016 at 17:01).

⁹⁵⁶ 'DEATH OF SON, WILFRED NIELD,' *Western Times* (31 July 1916), p. 4.

July, Nield went over the top at 7:30 am⁹⁵⁷ and died that same day.⁹⁵⁸ The circumstances of his death were not reported in the press, but are recorded by his public school, Winchester. Nield had managed to advance some way across No Man's Land before being struck by a bullet in his left wrist. He refused to go back to the dressing station and bound up his wound with a handkerchief. He received a second wound to the leg and was taken to a deep shell hole and placed with other wounded men waiting to be stretchered back to hospital. An artillery shell fell on the hole, killing Nield and his comrades.⁹⁵⁹

Whether his son's death hardened Nield's attitude towards C.Os. is impossible to say. Nield possessed enough beliefs anyway to cause him to be suspicious and hostile to them. Nevertheless, the depth of Nield's grief and his sense of the importance of remembering the dead can be seen nearly five years later when he took on the responsibility of ensuring that the names on the House of Commons' war memorial were 'perfectly accurate' by asking the Members and relatives of Members to send him details of their fallen sons.⁹⁶⁰

Material for Revisionism

Nield therefore possessed the ideology, beliefs and a profound experience of grief that would make a tribunalist unsympathetic to appellants for exemption and hostile towards those with tender consciences. However, this is not the complete story. Nield was a far

⁹⁵⁷ Martin Middlebrook, *The First Day on the Somme* (London: Penguin, 2006), p. 122.

⁹⁵⁸ 'Nield, Wilfred Herbert Everard', at <http://www.winchestercollegeatwar.com/archive/wilfred-herbert-everard-nield/> (last accessed 17 May 2016 at 17:35).

⁹⁵⁹ Ibid.

⁹⁶⁰ 'HOUSE OF COMMONS' MEMORIAL', *Western Daily Press* (6 October 1921), p. 7.

more complex character than the generalised descriptions of the tribunalists would have one believe. Though he was a patriot, an anti-pacifist and a Germanophobe, his Toryism was the sort that stood for the individual rights of British people *vis-a-vis* their state. Nield demonstrated what the *Nottingham Evening Post* and the *Yorkshire Post and Leeds Intelligencer* had said of him: that he was a ‘sworn enemy of bureaucracy’ and ‘a strong individualist’,⁹⁶¹ and one who possessed a ‘fierce belief in liberty.’⁹⁶² He was therefore concerned to defend certain types of appellant who appeared before his Section and to limit the reach of conscription through the raising of the upper age limit. The type of appellant he most staunchly supported was unfit men who had been passed for military service. Chapter three has evaluated Nield’s actions on behalf of medical appellants from the perspective of his role as a Tribunalist; this chapter will analyse his actions as an MP.

Protecting the Sick and Infirm

By early September 1916, Nield had already won renown as an advocate for the unfit pressed unfairly into service. A. T. Pike wrote to Nield on 5 September 1916 describing Nield as having ‘a reputation’ for an ‘interest’ in ‘the case of rejected men and the treatment they [received] by the Mill Hill Medical Board’ and for ‘the just line of action’ he took in these cases. Therefore, Pike was enclosing his appeal to the Appeal Tribunal and a letter he had sent to the War Office, in order to complain about the perfunctory medical examination he had received at Mill Hill.⁹⁶³ Nield advised the Joint

⁹⁶¹ ‘SUDDEN DEATH OF SIR HERBERT NIELD K.C.: A TYPICAL JOHN BULL’, *Nottingham Evening Post* (11 October 1932), p.1.

⁹⁶² ‘HOUSE OF COMMONS PERSONALITIES; LXI.-SIR HERBERT NIELD’, *Yorkshire Post and Leeds Intelligencer* (9 September 1929), p. 8.

⁹⁶³ TNA MH 47/121/9: Letter from A. T. Pike to Herbert Nield Esq., K.C., M.P., 5 September 1916.

Secretaries to write to Pike advising him that he was entitled to ‘make an application to the local tribunal for exemption within 30 days of the date’ in which he came under the Military Service Act. The necessary forms could be obtained from the clerk to his local tribunal.⁹⁶⁴

Nield began his Commons’ protest over sick men being conscripted on 1 March 1917 during a debate on the Medical Boards and the classification of recruits. Nield spoke of the ‘great waste’ which was taking place of hospital resources which were taken up by men who had been passed as fit for service when they were not and who had broken down during training, thus occupying beds that might have been used for wounded men returned from the front. The dramatic example Nield gave was of the hospital beds that had been taken up by 5,000 soldiers and sailors who had been discharged with tuberculosis and who ought never to have been conscripted in the first place. Nield therefore wished to see unfit men remain in their civil occupations where they could serve their country more effectively. About men who had attested under the Derby Scheme and yet had been exempted on medical grounds, Nield protested that such men under the Military Service Acts were told that their exemption counted for nothing as they had attested. ‘All over the country’ and in a few cases from his own experience, Nield declared that medical boards were refusing to re-examine attested men; they were also refusing to re-examine men who had been sent for re-examination by the tribunals. Nield found that dealing with these cases ‘in the face of classification by medical boards’ was very difficult, and they placed ‘a very great burden’ on tribunalists who were now having to determine whether medical classification could be relied upon.

⁹⁶⁴ TNA MH 47/121/9: Letter from the Joint Secretaries to Mr. A. T. Pike, 8 September 1916.

Nield also brought to the attention of the House claims of the War Office's wrongdoing in the medical classification of men. According to Nield, soldiers classified as B1 and C1 were regularly being transferred 'under the powers possessed by the War Office' into 'classifications of a superior character', yet on joining the Army had to have their classification reduced. As evidence, Nield presented 59 individual examples, the most outrageous example being a man whose classification was reduced on joining up from A to C2.

Nield was appalled too by the 'great hardship' suffered by all men who had been wrongly classified as physically capable. One type of case was those men who had been rejected multiple times by the Army and who on the assumption that they would never be called upon to serve had entered into business, got married and incurred other obligations, only then to be declared fit by a medical board and required to join up. The consequence was frequently the winding up of their businesses and the dissipation of their savings. Once these men were broken by their experience of military service, they were dismissed from the forces with no pension to rely upon. Nield concluded his speech for the amendment by saying that he felt it was his 'bounden duty to bring this matter before the House.' He trusted that the result would be 'an inquiry by competent persons into the whole of these cases.'⁹⁶⁵ So effective was Nield's speech that he earned the gratitude of Philip Snowden, one of the leading pacifists and anti-conscriptionists in the Commons, who rose to speak after Nield.⁹⁶⁶ The combined efforts of Nield, Snowden and other MPs such as William Pringle, failed, however, to move Sir James

⁹⁶⁵ 'MEDICAL BOARDS (CLASSIFICATION OF RECRUITS), H.C. Deb. 1 March 1917 vol. 90 cc. 2237-54.

⁹⁶⁶ Ibid., c. 2254.

Macpherson, the Under Secretary. Macpherson was adamant that though a small number of mistakes probably had been made, which was only to be expected in the light of the number of cases, overall the medical boards had done ‘extraordinarily well’ in examining so many accurately.⁹⁶⁷

Nield returned to the subject of sick men being conscripted during the review of the Exceptions Bill on 3 April 1917. Nield’s role in this debate was to call into question once more the military’s judgement in medical cases. At the start of his speech to the Commons, he announced that he had just come from presiding over his Tribunal during which he had been examining what he called ‘flagrant cases’ or ‘scandalous cases’ in which medical boards had been responsible for re-grading men from the lowest category to the highest. Nield’s conclusion was that diseases were being ignored for the sake of finding conscripts. He also defended the integrity of private practitioners whose conclusions regarding men’s health were often at variance with those of the medical boards. Nield saw no evidence that medical certificates issued by appellants’ own doctors were fraudulent or intended to mislead and was of the view that certificates issued by a man’s doctor were more likely to be accurate than the diagnosis of a doctor seeing the man for the first time. Nield’s position was that he wanted to ensure that the Army had fit men rather than the sick. His conclusion was that the special boards were ‘prepared to pass these men in for general service’ and that it was ‘a terrible chapter’.⁹⁶⁸

⁹⁶⁷ Ibid., c.2258.

⁹⁶⁸ ‘Review of the Exceptions Bill CLAUSE 1.—(Power to Call Up Certain Excepted Men for Examination)’, H.C. Deb. 3 April 1917 vol. 92 cc.1139-211.

Other Members of the House spoke in support of Nield, such as John Simon, MP for Walthamstow and Sir Stephen Collins, MP for Lambeth Kennington. Henry Forster, the Financial Secretary to the War Office, spoke in reply for the Government. He stated that greater weight was now being given to medical certificates produced by appellants' own doctors, but it was clear he said, that some medical certificates were 'worth a great deal more than others.' Forster therefore could not 'accept the view that the presentation of a medical certificate by a man who is being examined ought to secure an examination by the special medical board.' He nevertheless understood the strong views of the House on the matter and would consult with the Secretary of State for War and other advisers to see how far they could go in meeting the views of the House.⁹⁶⁹

The Military Service (Review of Exceptions) Act of May 1917 permitted the Army Council to retain its power to re-grade men formerly discharged from military service on grounds of ill health and incapacity. The political uproar over the actions of the Army Council and the War Office in grading thousands of unsuitable men as category A led to the creation of a Parliamentary Select Committee to investigate the matter.⁹⁷⁰ Nield was a member of this Committee and just as he was known for his exacting cross-examinations of appellants before his Tribunal, so too was he when the Committee summoned people to give evidence. One such occasion took place in early July 1917 when the Surgeon General and Director-General of Medical Services, Sir Alfred Keogh, was summoned over the accuracy of the medical boards' procedures and grading and whether the boards' judgements were determined by quotas rather than diagnostic objectivity. During his forceful questioning of Keogh, Nield won Keogh's concession

⁹⁶⁹ Ibid., c. 1202.

⁹⁷⁰ McDermott, *British Military Service Tribunals*, p. 181.

that in one case, the president of a medical board had ignored the advice of the famous doctor, Sir James Mackenzie, and had graded a man fit, although for Keogh the case was an irregularity rather than representative. Nield displayed a firm grasp of other issues in his confrontation with Keogh. Nield next asked about duodenal ulcers: would Keogh pass a man for service suffering from that condition? Keogh said he would not. Nield continued: would it be surprising that even such cases were being passed as fit? Keogh regarded it as surprising, but added that if there were any doubt about the *bona fides* of the medical certificate of a man claiming ulcers, he would be passed fit in order to be examined in a military hospital. At this Nield expostulated: ‘What! Pass him into the army and make him amenable to military law?’ Keogh was unrepentant for a man could not be admitted to a military hospital unless he was in the Army.⁹⁷¹ Nield also took the opportunity to tackle Keogh over the Mill Hill Board whose judgements Nield’s Appeal Tribunal had had to examine on appeal by men dissatisfied with its grading. Infuriated with Mill Hill grading tubercular men as fit for service, Nield asked Keogh to confirm that no man who had been under treatment for tuberculosis would be permitted into the armed forces, which Keogh confirmed. Nield therefore asked whether Keogh would be surprised to know that there were boards that ignored this principle and whether he would agree that this was ‘gross neglect’. Keogh replied that he was surprised and that if true, such cases represented neglect. Nield completed his questioning by presenting the specific case of a man whose doctor had provided evidence that he was suffering from tuberculosis, had nevertheless been called up, served for one day and was dead within two months. Keogh described this as ‘very wrong’, but that it was not his task to ‘defend ignorance, carelessness, or the knowledge

⁹⁷¹ ACCEPTING THE UNFIT. STATEMENT BY DIRECTOR-GENERAL OF MEDICAL SERVICES, *Dundee Courier* (4 July 1917), p. 3.

on the part of members of the medical boards'. Nor was it his task to 'educate them'.⁹⁷² Keogh's performance clearly did not impress the Select Committee, for the recommendations of the Select Committee resulted in the setting up in November 1917 of medical boards comprised of civilian doctors under the supervision of the new Ministry of National Service.⁹⁷³

Though Army medical boards were replaced with civilian boards, problems with the accuracy of grading did not end and Nield continued to voice his criticisms of these in the Commons. One such problem was those men who had joined the Army as fit men, but who had been made sick by their service. Despite the manpower crisis of April 1918 when the Army was desperate for men to stem the Germans' 'Michael Offensive', Nield asked whether the Government would consider returning by substitution serving men who previously had worked in the postal service and who had been rendered unfit for general service or relegating them to Class W of the Reserve. Nield demonstrated a touch of compassion when he declared this ought particularly to apply to married men and those with families to support, but his prime concerns were 'to supply the urgent need for men, and at the same time, to save further expense to the public funds.' Arthur Beck, the Parliamentary and Financial Secretary, assured Nield that 'improved arrangements for effecting the release in substitution of men unfit for general service' had been made recently by agreement between the Government departments concerned. Beck anticipated that 'a number of men of the class referred to' would 'become available for substitution.'⁹⁷⁴

⁹⁷² 'OF MEDICAL BOARDS', *Yorkshire Evening Post* (4 July 1917), p. 5

⁹⁷³ McDermott, *British Military Service Tribunals*, p. 206.

⁹⁷⁴ 'SOLDIERS UNFIT FOR GENERAL SERVICE', H.C. Deb. 25 April 1918 vol. 105 c. 1134W.

On 10 June 1918 during a Commons' debate on medical boards, Nield asked Beck, the Parliamentary and Financial Secretary, why after assurances to the Commons that medical boards would have as a minimum five doctors, they were allowed to operate with a minimum of three. Beck replied that 'under the stress of the sudden large increase in the number of recruits for the Army' it had been found necessary 'in certain districts' to reduce the number of doctors serving on boards in order 'to increase the number of acting National Service medical boards. In the course of the ensuing discussion, prompted by other Members' questions, Beck revealed that the Government had resisted the advice of London's Assistant Director of Medical Service to use two doctors on each board, and that 'those who deal with this matter are perfectly satisfied as long as three doctors examine the man.'⁹⁷⁵

The problem of accurate grading was acute in the case of older men, particularly those close to and of the age of fifty who were now being called to the Colours in 1918. On this matter, Nield gave the longest Commons speech of his career. Nield's conscience had been stirred on this matter by his work as a Tribunalist and he declared at the commencement of his speech that he was motivated by 'a strong sense of duty' to 'prevent the multiplication, especially among the older men, of those tragedies which those of us who are identified with the tribunals are now becoming daily familiar.' Nield was aware that older men had more to lose in terms of their businesses, commercial interests and domestic situations if they were inaccurately passed for service. He was certain that unless something was done to resolve the dissatisfaction

⁹⁷⁵ 'MEDICAL BOARDS', H.C. Deb. 10 June 1918 vol. 106 cc. 1848-50.

that was now growing like ‘a tide of discontent’ throughout the country, but particularly in the southern part, it would ‘be very difficult to deal with’. Nield was certain that he and other tribunal chairman, after ‘two years and three months’ of experience of judging appeals, were in the position to make the judgement that ‘physical wrecks’ who came before them ‘with grading cards marked 1’ had not been properly examined.⁹⁷⁶

In Nield’s opinion, a fundamental cause of the inaccuracy of medical classifications was once again the speed at which medical boards were expected to operate by the Minister of National Service. Nield referred the Commons back to the Government’s statement in the debate on 7 April 1918 in which it declared that the aim was for 25,000 cases to be heard daily. This according to Nield was foolhardy because of what the MP for Rushcliffe, Leif Jones, had said during that debate:

‘however careful medical boards are, the weaknesses that find us out in our years after forty-five are not observable at once by a board which is a stranger to the man who comes before it for medical examination.’

Jones blamed the military authorities for urging the medical boards to get the work done and he spoke of ‘the hustling processes of the military authorities who are anxious for men.’ Nield considered these ‘pregnant words’ which by themselves ought to have ensured an accurate medical examination system, particularly after the Select Committee had taken the organisation of medical examinations out of the hands of the War Office and placed it in those of the Minister of National Service.⁹⁷⁷

⁹⁷⁶ ‘MILITARY SERVICE (MEDICAL GRADING), H.C. Deb. 20 June 1918 vol. 107 cc. 607-42.

⁹⁷⁷ Ibid., c. 612.

Nield went on to query the official statistics of complaints against medical boards.

According to the Ministry of National Service, complaints amounted ‘to something less than 1 per cent’. Nield was sceptical of this, for ‘in the course of something like three weeks...or, to be on the safe side... four’ no less than ‘400 applications’ had come before the Middlesex Tribunals to appeal the decisions of medical boards. Of course, an application to appeal was no necessary indication that the original grading was inaccurate, and so Nield turned to the evidence of changed grades after examination by the medical assessors at the behest of the Appeal Tribunal. According to Nield, ‘since November, 1917, no less than 30.4 per cent of those applications in Middlesex’ had ‘resulted in reduction of the grading.’⁹⁷⁸

Nield then proceeded to address the inadequacies of medical board procedure. He referred to a circular letter that had been issued on 3 May 1918 by the Director General of the London region. The letter stated that ‘four medical men and the President’ were to conduct examinations. The boards were supposed to have ‘five clerks each’ and extra medical equipment was ordered to conduct better examinations. Men were not examined by all five members of the board simultaneously, but each member of the board saw men individually, referring queries and ‘questions of doubt’ to the president with whom the original examiner consulted. This consultation option enabled boards to avoid the complaint that men were seen only by one doctor. Under such a system, each man was ‘under investigation from fifteen to twenty minutes, which was ample time to find out his fitness for service in the Army.’ Such a system, according to a letter Nield had received from a former examiner, achieved the balance between ensuring accurate

⁹⁷⁸ Ibid., cc. 612-13.

examinations and meeting the needs of a demanding timetable of examinations, for it permitted twelve to fifteen proper examinations an hour. According to the former examiner, about the middle of May that system was replaced ‘by the present system of examination, when the board was reduced to the president and two examiners.’ The examinations were expedited and from thirty to forty recruits were examined in two and a half hours, each examination of a recruit taking from four to five minutes, which was an inadequate amount of time. It was because of this change in the system that the examiner had resigned. It was ‘only from a strong sense of duty’ that he wrote to Nield to expose ‘this system, to which he declined to be party.’⁹⁷⁹

The matter was also one of the sovereignty and integrity of the tribunals, a matter that never was far from Nield’s considerations, and of maintaining an objective standard of fairness. Nield had noticed in an edition of the *Morning Post* that week that it had been reported that the Minister of National Service had sent a letter to the Wallasey Tribunal ‘saying that the demand for men of the higher grades was so insistent’ that they had to ‘send every man they possibly could.’ Nield argued that such a request was ‘in the minds of some tribunals as being tantamount to an instruction’, but other tribunals resented such ‘dictation’ and intended to go on as before, ensuring that men ‘should have the same attention in their matter of grading as had many of their sons, because that is what it comes too.’⁹⁸⁰

Nield concluded his speech by stating that it was his ‘duty’ to declare that medical examinations were ‘not now what they ought to be’ and that the cause was due to the

⁹⁷⁹ Ibid., cc. 615-18.

⁹⁸⁰ Ibid.

authorities speeding them up. Nield did not doubt that the Ministry of National Service was under great pressure 'to deal with the number of recruits wanted by the Army' but he did not think 'that the work should be done badly because of that.' He therefore exhorted the Government to take whatever action was necessary to ensure the restoration of 'the confidence of the public in the examination of these men, because everything depends upon these examinations.'⁹⁸¹

The debate on medical grading on that occasion was postponed because the Commons had run out of time, but Nield returned to the attack on the matter of medical examinations for the final time on 27 June 1918. The Commons was originally debating the motion that £900 ought to be added to the amount already agreed would be supplied to the Government to defray the cost of salaries and expenses of the Ministry of National Service during the year ending 21 March 1918. However, as the debate over the quality of medical grading was unfinished, Geddes turned to explaining the rationale behind the new system of medical grading and the safeguards within the system to ensure accurate grading.⁹⁸² Nield took the opportunity to resume questioning over the meaning of the new grading system with reference to men in the older age categories. The problem, according to Nield, faced by chairmen of tribunals with regards to men in the age category of forty-three to fifty two was the pressure that had been put upon them by the military not to exempt men in this age bracket, even though that would mean tearing them away from their considerable business commitments and knowing full well that grade one men of advanced age were not really fit for the Army. Nield also sought to establish that the Government had established a 7% quota of men over the age of

⁹⁸¹ MILITARY SERVICE (MEDICAL GRADING), H.C. Deb. 20 June 1918 vol. 107, c. 617.

⁹⁸² 'STATEMENT BY SIR A. GEDDES', H.C. Deb. 27 June 1918 vol. 107 cc. 1252-311.

forty-two regardless of whether 7% of that age group was capable of military service.⁹⁸³

Lloyd George, whom Nield identified as the source of the 7% figure, was present at the debate and denied that he had established a quota, but that he had ‘presumed that it would be 7 per cent.’⁹⁸⁴ Nield was not deterred, for he quoted Geddes as having said on 20 June that:

‘it is absolutely necessary, if we are not to dislocate our arrangements for maintaining the forces in the field, that we should have 7 percent of the total number of men of the new age before the end of this year and that they should come in a steady flow.’⁹⁸⁵

Geddes denied that Nield was correct and referred him to what he had said in the Committee on the Military Service Bill on 15 April, which was that 7 per cent of men were liable to being called up, rather than required as a matter of course.⁹⁸⁶

Nield continued his criticism by quoting from a letter he had received dated 24 June from a member of a medical board. The correspondent was of the opinion that members of medical boards disagreed with the calling up of men over forty-five for military service. The correspondent believed that the examinations were fair and stated that every man was asked if he was satisfied with the examination before signing the book, but men passed as grade one in the oldest age group were not fit for military service. This, the correspondent believed, was not the fault of the medical boards, for they could only grade the men ‘on the lines laid down in the pamphlet of instructions issued to them.’ The responsibility for inaccurate grading, according to the correspondent, was with the National Service boards and Parliament. Nield warned the House that this letter

⁹⁸³ Ibid.

⁹⁸⁴ Ibid.

⁹⁸⁵ Ibid.

⁹⁸⁶ Ibid.

was ‘one of a great number of letters showing dissatisfaction attached to the medical boards’.⁹⁸⁷ It was Nield’s opinion that if an alteration were made to ensure truly civilian boards, it would ‘cure the defects of which we complain in certain parts of London.’⁹⁸⁸ Nield ended by asserting that the work of the tribunalist was ‘a very painful duty’ and one that he and other tribunalists were ‘having to do...constantly week in and week out.’ Unless help was provided ‘with regard to the difficult question of grading’ and unless the tribunals could have ‘more confidence in the medical boards’ decisions’, the tribunalists would be ‘obliged to consider whether it is possible to go on any longer under the present conditions.’⁹⁸⁹

These were the last words Nield spoke in the Commons on the problems with medical examinations. His words threatening resignation, a sign of his and others growing unease at the injustices and suffering caused by the system, drew the intervention of the Prime Minister who in his easy, eloquent manner was unrepentant. Lloyd-George declared that it was not a matter of sympathising with those sent to France, for all sympathised with men who had to part with their business and suspend their professions to serve their country. It was ‘the grim necessities of the hour’⁹⁹⁰ and the danger in which Britain found itself that required calling more men to the Colours. According to Lloyd George, the taking of more men inevitably and unavoidably meant that ‘greater hardships than those that were imposed upon the first drafts for military service.’⁹⁹¹ Lloyd-George explained that when he had said that 7% of men aged forty-three to fifty-

⁹⁸⁷ Ibid., c. 1291

⁹⁸⁸ Ibid.

⁹⁸⁹ Ibid., c. 1296

⁹⁹⁰ Ibid., c. 1297.

⁹⁹¹ Ibid.

one were to be called up, he did not mean for the fighting line. Rather they were to be used ‘in services behind the line and in services in Britain’ which then would enable fit men to be combed out and put in the fighting line if other fit men were able to take their place behind the line. Thus, chairmen and their tribunalists need not worry that older men graded as one would be directly engaging the enemy. Lloyd-George resolved the debate by giving his approval to Geddes’ suggestion of a meeting between Geddes himself and the seven MPs who served as tribunal chairmen to solve the difficulties and reassure the public. As the need for men was very great, Lloyd-George trusted that the meeting would happen ‘at the earliest possible moment.’⁹⁹²

Opposition to Raising Conscription’s Age-Limit

On 9 May 1916, the Commons debated Clause One of the Military Service Bill (Session Two) which lowered the age of conscription to 18 and raised it to the age of 40.⁹⁹³

Ronald McNeill, the Member for St Augustine’s had proposed an amendment to Clause One regarding the age limits of conscription. He begged to move ‘to leave out the words ‘the age of eighteen years, and has not attained the age of forty-one years,’ and insert instead thereof the words ‘military age.’ His proposal was in effect to give ‘His Majesty in Council’ flexible powers to change at what age it would take men as and when required.⁹⁹⁴ Nield spoke in opposition to this. He voiced concerns for those men over the age of conscription who were ‘making their arrangements on that basis to carry on’ with their normal lives, and yet who feared suddenly being made liable to military service ‘by a mere Resolution of this House.’ As evidence, Nield referred to ‘numerous

⁹⁹² Ibid. c. 1299.

⁹⁹³ CLAUSE 1.—(Extension and Continued Operation of Military Service Act, 1916. 5 and 6 Geo. 5, c. 104), H.C. Deb. 9 May 1916 vol. 82 cc. 472-620.

⁹⁹⁴ Ibid., cc 508.

letters of protest' that had been sent to him. On that basis Nield advised the House to consider any alteration to the age limit 'very carefully' and to take 'the first opportunity of considering the conditions necessary to protect these people, by even greater protection than' was being given at that time.⁹⁹⁵ Nield's opinion reflected that of the majority of M.P.s: the Bill became law on 25 May and fixed the minimum and maximum age of conscription as 18 and 40 respectively.

Concern for 'Young Lads'

Concerning the minimum age of conscription, Nield showed compassion in response to Snowden's evidence of young men's suffering. Snowden argued that deployment in the front line caused eighteen year old men, or 'young lads' as he called them, 'very serious effects, both physical and mental'.⁹⁹⁶ He gave as evidence a case that had been brought to the public's attention of a man from the East End of London who had enlisted at eighteen-and-a-half years in the 1st Battalion of the Middlesex Regiment. His training prior to being sent to the front was 'comparatively short'. The soldier was a prolific letter writer to his mother, many copies of which Snowden had in his possession and which had been written between July 1915 and January 1916. Snowden opined that the letters were 'not of a man, but of a boy.' Snowden narrated how the boy died. On 15 January 1916, his mother received a letter, not from her son, but from the Infantry Record Office at Hounslow informing her with regrets that her son was at a field hospital suffering from wounds and shock caused by a mine explosion. The letters asked the mother not to worry for her son's sake as he was judged to have recovered

⁹⁹⁵ Ibid., cc. 517.

⁹⁹⁶ CLAUSE 1.—(Extension and Continued Operation of Military Service Act, 1916. 5 and 6 Geo. 5, c. 104), H.C. Deb. 9 May 1916 vol. 82 cc. 552-3.

quickly. By the date of the soldier's first letter to his mother once back in the front line, 26 January 1916, it was clear that he had been returned to combat duties within a month of having been hospitalised. For some weeks the soldier did not write and then his father received a letter from a Lieutenant Colonel P. G. Hendley at the War Office informing him that his son had been executed on 20 March for desertion. Snowden's conclusion was that this soldier's desertion had been the consequence of his mental collapse which in turn was the consequence of his immaturity.⁹⁹⁷

Nield was among the first to respond to Snowden's speech, stung into speech no doubt because the soldier had served in the Middlesex Regiment. Nield was shocked by the severity of punishment that had been meted out to 'a lad of eighteen' whose desertion had been the consequence of shock. This, according to Nield, was 'a thing which ought never to have occurred' and he hoped sincerely that 'an investigation into the circumstances' would be conducted by the military 'to make it absolutely impossible for anything of the sort to happen again.' Though Nield was of the view that the lowest age limit which had been arrived at by the Government was not to be altered, he stated clearly that 'no young lad of eighteen ought to be sent into the firing line' but instead, 'he ought to be kept in training and his military proficiency should be advanced' so that when he came at least to the age of nineteen, 'he should be able to do his duty much more effectively.' The period of training of eighteen year olds, Nield counselled, had to be 'a prolonged period' and any soldier had to 'be nineteen' before being 'called on to face the enemy.'⁹⁹⁸ The response of the Financial Secretary to the War Office, Henry Forster, was that despite the example Snowden had given, it was not the Army

⁹⁹⁷ Ibid., cc. 552-4.

⁹⁹⁸ Ibid., cc. 561-63.

Council's policy to send men under nineteen abroad and that it was a matter of individual choice how commanding officers weeded out those too young before sending a detachment of soldiers abroad. The case that Snowden was referring to was therefore a regrettable mistake.⁹⁹⁹

Premature Call-Ups

On 20 March 1918, Nield brought to the attention of the Commons another violation of individual liberties and a violation of the judicial sovereignty of tribunals: the problem of men being enrolled in the military despite their applications for exemption pending with the tribunals. The case Nield referred to was that of William Goldsmith who was serving with the Royal Fusiliers and stationed in Britain at Dettingen Barracks at Blackdown Camp. He had been conscripted despite his application for exemption having been adjourned by the Chiswick Local Tribunal in order for Goldsmith to be medically examined. Nield asked the Under Secretary of State for War, Macpherson, whether he had received a request from the Chiswick Tribunal on 20 December 1917 that Goldsmith be 'sent back to the tribunal as a civilian'. Nield also wished to know why a further two letters to the War Office dated 9 January 1918 and 8 February 1918 had gone unanswered and why in this matter the tribunal's letters had been 'treated with contempt.' Macpherson informed Nield that his first question was not for the War Office, but for the Ministry of National Service. He went on to apologise to Nield for 'the delay in acknowledging the tribunal's communications and in keeping them informed of the action taken.' He defended the War Office by describing the case as 'one of considerable difficulty, due to the man's non-compliance with the instructions

⁹⁹⁹ Ibid., cc. 567-68.

on the calling-up notice.’ However, a solution according to Macpherson had already been reached: the Ministry of National Service had recommended that Goldsmith be ‘relegated to the Army Reserve, Class B, to enable his case to be heard by the local tribunal.’¹⁰⁰⁰

An Appellant’s Right to Legal Counsel

Nield protested too the government’s cancellation of the right of the appellant to be represented professionally by a solicitor at his tribunal hearing. The debate over this took place on 30 April 1918 when Albion Richardson, the Member for Camberwell Peckham, asked whether the Local Government Board’s President, Hayes Fisher, knew about a resolution passed by the County of London Appeal Tribunal protesting that under the provisions of the Military Service Acts, applicants had been deprived of the right to professional assistance at their tribunal hearings. Richardson continued by asking whether Hayes Fisher would consider suspending these new regulations ‘until the House of Commons had been given a proper opportunity of discussing them.’¹⁰⁰¹ Hayes Fisher responded by admitting that the right to professional assistance had indeed been removed from applicants. The purpose of that, he explained, was ‘to expedite the proceedings before the tribunal.’ Fisher was aware that ‘some Members of the House, specially experienced in the working of the Appeal Tribunals’ were ‘of the opinion that the abolition of the right of professional assistance’ would ‘retard not accelerate the action of the tribunals’ and their desire was that Hayes Fisher should suspend the operation of the Regulations in this matter until those Members had had the opportunity

¹⁰⁰⁰ ‘ROYAL FUSILIERS (WILLIAM GOLDSMITH)’, H.C. Deb. 20 March 1918 vol. 104 cc.1000-1W.

¹⁰⁰¹ ‘APPEAL TRIBUNALS (PROFESSIONAL ASSISTANCE)’, H.C. Deb. 30 April 1918 vol. 105 c.1392.

to present their views. Hayes Fisher declared he was unable to cancel the particular Regulation that prohibited professional assistance and that the Regulations came into effect on 2 May. Once Hayes Fisher had had the opportunity to hear the views of the House on 2 May, he would be able to rescind or vary this aspect of the Regulations. The Regulation pertaining to professional assistance would therefore in his opinion only be operative ‘for a very few days’.¹⁰⁰²

Nield was of the same opinion as his fellow Appeal Tribunal Chairmen who sat as MPs. His concern was for those men whose cases would be heard after the Regulations had come into effect on 2 May and before the House had had a chance to air its opinion. Nield consequently asked Hayes Fisher whether he would, in the light of being shown to be wrong by the House’s opinion, ‘bring in an amending Rule to preserve the rights of those persons who may be prejudiced by delay.’¹⁰⁰³ Other Members, such as Colonel Sir C. Seeley, spoke in favour of there being a postponement of cases being heard until after the opinion of the House had been gathered.¹⁰⁰⁴ Hayes’s response was neither to offer an amendment nor an official delay to tribunal proceedings, and he presented no other solution to the problem of what to do with those men whose cases would be heard between the enacting of the Regulations and the Commons’ debate. He stated his confidence that the ‘gentlemen who preside over the tribunals’ would ‘see what is the intention of the House’, be guided by it, and in the meantime, could exercise the right to adjourn cases.¹⁰⁰⁵

¹⁰⁰² Ibid., c. 1393.

¹⁰⁰³ Ibid., c. 1394.

¹⁰⁰⁴ Ibid., cc.1394-95.

¹⁰⁰⁵ Ibid., c. 1395.

Russian and Polish Subjects

Though aggressive towards enemy aliens in Britain, for foreign subjects of allies and former allies Nield demonstrated concern. One such group was Russian subjects living in Britain who were still liable to military service as citizens of an allied power, some of whom had applied for exemption and whose cases were according to Nield not being treated justly. On 28 November 1917, Nield asked Hayes Fisher whether he was aware that ‘the special Russian tribunal set up for the county of London’ was ‘refusing to hear applications from Russian subjects’ who were ‘resident outside the county of London though carrying on business within it’ and so were ‘compelling Russians to appear before ordinary local tribunals’ which had ‘no Russian representative sitting upon them’ and therefore ‘were unable to appreciate the special conditions relating to Russians’ which had necessitated the setting up of ‘special tribunals and advisory committees in London.’ Hayes Fisher responded by saying that the Special Tribunal would hear cases on business and employment grounds if the business or employment was ‘situated in the area of the administrative county’ and on personal grounds if the place of residence was within the area. Hayes Fisher had ‘no evidence’ that the Tribunal was ‘refusing to deal with applications made properly to them’ and concluded his response by asserting that the special tribunal had no ‘proper authority’ for dealing with an application on personal grounds if the appellant resided outside the area.¹⁰⁰⁶

Nield also raised on this occasion with Brace the conditions in which Russian subjects were held in custody as absentees under the Military Service Act, or on remand. Nield complained that they were treated as ‘ordinary criminals’ and were ‘not permitted to

¹⁰⁰⁶ ‘RUSSIAN SUBJECTS’, H.C. Deb 28 November 1917 vol. 99 cc. 2029-30W.

have cigarettes even for medicinal purposes.’ What incensed Nield was that cigarettes were permitted to Germans. He could not see how ‘preferential treatment’ could be accorded to enemy subjects who had ‘outraged every canon of human law’ and yet no special treatment accorded subjects of a former ally. Brace denied there was any preferential treatment and that the same rules applied to all.¹⁰⁰⁷

Nield showed at the end of the War concern too for Polish subjects who though subjects of an independent country as recognised by the British Government in May 1917, were still subject to conscription into labour battalions on the basis that they continued to be regarded as Russian subjects. Nield wished to know whether this conscription was ‘by arrangement with the National Polish Committee’ and whether such action was also ‘authorised by any convention or other act of the State.’ He also drew Balfour’s attention to the resentment among Polish citizens at being regarded as Russian subjects and because of their nationality status, being conscripted for labour battalions rather than having the honour of serving in combatant units as if ‘they were incapable of any intelligent military service and were mere serfs.’¹⁰⁰⁸ The Foreign Secretary’s reply referred Nield to Lord R. Cecil’s reply to Joseph King MP¹⁰⁰⁹ and his own replies to Alexander Frederick Whyte MP¹⁰¹⁰ on 24 June and 29 July respectively wherein it was stated the convention with Russia in which its Polish subjects could be conscripted by friendly foreign powers still was in force. In his response to Whyte, Balfour had stated that the British military authorities had given ‘the option of serving in the Polish Army

¹⁰⁰⁷ ‘RUSSIANS AND POLES (ABSENTEES), H.C. Deb. 19 June 1918 vol. 107 cc. 357-8W.

¹⁰⁰⁸ ‘RUSSIAN SUBJECTS (POLISH ORIGIN), H.C. Deb. 12 November 1918 vol. 110 cc. 2473-4.

¹⁰⁰⁹ ‘RUSSIAN SUBJECTS (LABOUR BATTALIONS), H.C. Deb. 24 June 1918 vol. 107 c. 696.

¹⁰¹⁰ ‘POLES IN GREAT BRITAIN’, H.C. Deb. 29 July 1918 vol. 109 cc. 18-19.

in France to Poles of Russian nationality resident' in Britain.¹⁰¹¹ Balfour was of the opinion that the military were the best judges of the corps in which such persons could most usefully be employed.¹⁰¹²

Nield's Correspondence

Local and appeal tribunal panels consisted of local and provincial men and a few women of prominence. Though many appellants complained of the coldly bureaucratic nature of their hearings, tribunal panels were not professional bodies operating at a distance from those who came within their jurisdiction, but were comprised of volunteers known well to the communities in which they were operating. Some people felt they could write to the tribunalists and thus, Nield's correspondence, incomplete as it is,¹⁰¹³ demonstrates that he was the object of correspondence in his role as a Tribunal Chairman, but also as an MP. Nield was therefore seen as an individual who was regarded as being sufficiently reasonable and empathetic to be worth writing to in the first place. Moreover, the letters from people seeking to influence Nield's judgements at hearings demonstrate that in the eyes of some, tribunalists were not untouchable, draconian figures. Second, the letters demonstrate the fine line Nield had to walk as a man who was both an MP obliged to give counsel to his constituents, some of whom would appear before his Tribunal, and a Tribunal Chairman whose judgements had to be non-partisan. Nield's responses demonstrate how well he trod that fine line and maintained his integrity.

¹⁰¹¹ Ibid., cc. 19.

¹⁰¹² 'RUSSIAN SUBJECTS (POLISH ORIGIN), H.C. Deb. 12 November 1918 vol. 110 c. 2474.

¹⁰¹³ See TNA MH 47/121.

According to the letters that survive, people wrote to Nield most frequently to seek his intervention on their or another's application for exemption. Eight letters of this kind exist within the archive. The second most common type of letter was those requesting advice on how to apply for exemption or appeal against a judgement; four letters of this kind exist. There are three other types of letter, with one example of each extant within the archive: a general expression of opinion of national recruitment policy; an exposure of inaccurate medical grading accompanied by a description of the men's sufferings; and an attempt to influence Nield's judgement by the labour representative of the local tribunal in Nield's Ealing constituency. If Nield was the subject of appeals by letter, it is not peradventure to state that other tribunalists throughout Britain received the same attention.

When replying to correspondents, Nield maintained his personal accountability first by replying directly to his correspondent, but also by informing the Appeal Tribunal's Clerks of what advice he had provided. To further distance himself from his correspondents to ensure that his response was impartial, Nield most frequently instructed the Clerks to reply on his behalf, though directing them in what to write. The second method also relieved Nield of what he found to be 'quite a nuisance' of having to answer letters himself and paying the cost of the postage,¹⁰¹⁴ which suggests that the correspondence he received was much larger than the surviving letters suggest.

When it was a matter of giving advice on matters relating to conscription and appeals, Nield was content to oblige. The first existing letter seeking advice came from Neville

¹⁰¹⁴ TNA MH 47/121.

G. Ward who wrote to Nield asking for ‘a little advice’ as to how to get ‘a little longer than six weeks extension’ which he had been awarded on appeal on 24 July 1916. He wished to have sufficient time to close his draper and outfitter business, or find someone to manage it in his absence. Ward’s wife could not assist as she was in poor health and she was ‘away trying to make herself fit’. Ward wanted now to know what the next step was: ought he to ‘write to the Guildhall Tribunal for an appointment or apply personally.’¹⁰¹⁵ Though Nield’s personal response to Ward is not contained within the archive, what Nield advised is contained within the letter he wrote to William Hart, one of the Joint Secretaries, telling him how he had responded to Ward. Nield also included in his letter to Hart the letter that he had received from Ward so that Hart might see what request Ward had made of Nield. Nield’s advice to Hart was that he ought to write a statement describing his new circumstances and send it to his local tribunal.¹⁰¹⁶

One letter from a constituent that directly petitioned Nield for a favourable outcome to an appeal and which demonstrates his caution and integrity in dealing with such requests came from Alice Peart who wrote to Nield on 30 September 1916 on behalf of her son who had been called up for military service. She created a sense of obligation on Nield’s part by beginning her letter with a reminder that the last time she had seen Nield, he and Mrs Nield had been Peart’s late husband’s guests. Peart then requested a meeting with Nield before Wednesday 4 October.¹⁰¹⁷ Nield knew and trusted Peart well enough to respond personally and sympathetically to her rather than instruct the Clerks to write on his behalf, though a copy of his letter was filed with the Clerks. Nield

¹⁰¹⁵ TNA MH 47/121/8: Letter from Neville Ward to Herbert Nield Esq. M.P., 23 August 1916.

¹⁰¹⁶ TNA MH 47/121/8: Letter from Herbert Nield to W. Hart, 27 August 1916.

¹⁰¹⁷ TNAMH 47/121/9: Letter from Alice Peart to Mr Nield, 30 September 1916.

affirmed to Peart that he was ‘very anxious’ to meet her wishes and that he had ‘very great sympathies with the difficulties’ which had arisen in consequence of her son having been called for military service. That Peart’s letter makes no mention of what these difficulties were suggests that she or another had described them to him on another occasion, though no other letter by Peart or another on her behalf remains in the archive and no record exists of any meeting. The most Nield could do in his position was reassure her that her son’s appeal case would receive ‘the fullest consideration’. Peart’s request to see Nield before 4 October suggests that this was the date set for Peart’s son’s hearing. Though sympathetic, Nield stood firm on the principle of impartiality: it was impossible for him to receive any correspondence or communication ‘that may not be read in open court’. He also wished to exercise ‘the greatest care’ in order to avoid setting up a different standard between applicants. Nield therefore regretted that he could not meet with Mrs Peart.¹⁰¹⁸

The tone of Alice Peart’s letter was one of supplication, but other correspondents were prepared to take a more direct and high-handed approach in attempting to influence Nield. T. J. Allen, the labour representative on the Ealing Local Tribunal, took the very irregular step of writing to Nield telling him that the appeal case of T. B. Martin, a coal carrier from West Ealing, was soon to come before the Appeal Tribunal. Allen stated that he knew ‘a lot of these coal cases’ and that ‘it would only be an act of justice to allow the appeal.’ Presumably Allen regarded coal carrying as of national importance warranting the man’s exemption. What is clear is that Allen did not agree with the Ealing Local Tribunal’s decision in Martin’s case and was going over the heads of his

¹⁰¹⁸ TNA MH 47/121/9: Letter from Herbert Nield to Mrs Peart, 2 October 1916.

fellow tribunalists in writing to Nield. To avoid the appearance of trying to influence a Tribunal Chairman, Allen stated he was writing to Nield in his capacity as an MP rather than as a tribunalist as Martin was one of Nield's constituents, but in reality that was what Allen was trying to do: alter the outcome of a hearing and influence a tribunalist. Allen therefore asked Nield to forgive him if he was 'in any way out of order'.¹⁰¹⁹ Nield's response was understandably objective, impartial and curt: the Joint Secretaries replied on behalf of Nield and informed Allen that if the case had not already been dealt with, it would not be given any special consideration, but rather would be 'dealt with in the ordinary course on its merits.'¹⁰²⁰

One letter demonstrates how accessible tribunalists were to the public if they were public figures such as Nield. A constituent called W. Ealey wrote a terse letter on 19 May 1917 and sent it to Nield's home address. Ealey was of the opinion that 'there are men in West Ealing that ought to go to the war before the Post Master, Mr Mills.' According to Ealey, Mills' position was 'not easily filled' and recommended that two 'milk vendors' he knew of who were 'strong men' ought to go first.¹⁰²¹ The letter gives no more information than this and one can only surmise that Ealey was Mills' friend or colleague. There is no response from Nield or from the Joint Secretaries to Ealey within the archive. It is reasonable to assume that the letter of reply has not survived, but it is equally possible to estimate that Nield remained silent to deter correspondence directly addressed to his home and to avoid being drawn into offering opinions about the judgement of the Ealing Local Tribunal.

¹⁰¹⁹ TNA MH 47/122/8: Letter from T. J. Allen to Herbert Nield MP, KC, 16 July 1917.

¹⁰²⁰ TNA MH 47/122/8: Letter from the Joint Secretaries to Mr. T. J. Allen, 20 July 1917.

¹⁰²¹ TNA MH 47/122/6: Letter from N. Sealey to Herbert Nield Esq., MP, 19 May 1917.

Conclusion

This final chapter might be described as cautiously revisionist in a methodological and historical way. As the judgements of contemporaries and historians of the tribunalists have been the result of generalised studies of these men and a few women through their hearing decisions, this chapter has sought to invite social historians of the Great War to adopt a new methodology and consider further studies of individual tribunalists as a way of understanding more fully the people who volunteered to hear applications for exemption. In adopting this individualised approach, this chapter has elucidated important revisionist historical facts about Nield, the implication being that perhaps other individualised studies might do the same.

This chapter has demonstrated two things about Nield. First, that he possessed the social and ideological attributes and attitudes that explain why he adopted a formidable tone with appellants and why his Appeal Tribunal denied 70% of C.O. appeals. On this matter, this chapter confirms the traditional view of tribunalists. He was a privileged, successful man whose rank and age distanced him from most of his appellants. As a militarist, he espoused the values of preparedness for war and the noble worth of the volunteer. He was a Little Englander who despised the German military and urged even more punitive legislation than that already enacted against resident enemy aliens and internees. His patriotism and imperialism committed him wholeheartedly to the war effort and where he suspected pacifists and spies were undermining the war effort, he challenged the government to act severely. In this, Nield manifested a belief in the collective effort and sacrifice of all to win a war that threatened British sovereignty. He

also had reason to be personally aggrieved with appellants: the death of his son Wilfred Nield in combat on the first day of the Somme. Nevertheless, as is the case with most people, Nield is not easily categorised as he was unique and a man of paradoxes. He was a man who was convinced of the rightness of individual liberty and the sovereignty of judicial bodies such as the tribunals and in certain cases, where these seemed to be threatened, he used the platform he had as an MP to speak up. He was as much concerned about the plight of sick and unfit men being wrongly pressed into service as he was about tightening legislation against enemy aliens. The men who had attested under the Derby Scheme, eighteen year olds prematurely sent to the front line, appellants denied legal assistance, the older age groups who found themselves suddenly liable to military service in the last year of the War and those men who were called to the Colours despite pending tribunal hearings drew his sympathetic and passionate protest. Though regarded as a xenophobe, injustices towards Russian and Polish men drew his censure too. It is impossible, of course, to build a case on one example to challenge the judgement of historiography about the tribunalists, but it is the desire of this chapter to invite further individualised studies of them which can only serve to provide a more rounder and nuanced picture of a traditionally excoriated body of volunteers.

Conclusion

The history of the tribunals begins with the obstacle of the paucity of evidence and data. In 1921, at a time when veterans were circulating the first narratives of remembrance,¹⁰²² the Government chose to forget officially all but the proceedings of two Appeal Tribunals: that of Peebles and Lothian and that of Middlesex. By exempting the records of two Appeal Tribunals from extinction, the Government was preserving future reference material if ever conscription were introduced again, which eighteen years later proved to be a prescient decision. Therefore, at a time of remembering, the tribunals were seen as best forgotten. This should not come as a surprise within the context of the early post-war period. If the dominant voices of memory were those of ex-soldiers, seen as authentic because of their direct experience of combat, the records of those who sought to avoid combat may have seemed far less impressive, and in the case of C.Os., even insolent and therefore not worth preserving. However, just as veterans sought to present the real war as opposed to what they regarded as the misrepresentations of those who never saw combat,¹⁰²³ so too did early pacifist commentaries seek to memorialise the tribunals' unjust treatment of conscientious objectors in contrast to the official propaganda that the Great War had been a just war justly pursued. Thus, the reputation of the tribunals for incompetence and prejudice was born and the emotive topic of the C.O. became the focus of those who first chose to write about the tribunals. Those writing the first British histories of the First World War in the late sixties and early seventies adopted this traditional view of the tribunals. Writing within the context of A. J. P. Taylor's influential view that the War had been a

¹⁰²² Jay Winter and Antoine Prost, *The Great War in History: Debates and Controversies, 1914 to the Present* (Cambridge: Cambridge University Press, 2008), p. 174.

¹⁰²³ *Ibid.*, p. 176.

waste of lives¹⁰²⁴ and with the tragedy of the Vietnam War unfolding before their eyes,¹⁰²⁵ it was no coincidence that historians sympathised with those men who refused to fight.¹⁰²⁶ Later historians and popular histories have perpetuated the traditional view. The tribunals remained the enemies of liberty of conscience and the minority of men who refused to fight because of conscience stood out as brave dissenters to the folly and barbarism of war.

However, prevailing opinions, if around long enough, eventually attract revisionist criticism. This has been the case with the tribunals. Those historians seeking to re-configure the history of the tribunals have drawn our attention to the ambiguous and increasingly large and complex legislation that made it ever more difficult for tribunalists to understand their task. The enormous caseload with which the tribunals had to deal with, particularly in the first six months after the introduction of conscription, was often the cause of C.Os.' complaints that hearings had been perfunctory. If there were many examples of tribunalists venting their animosity towards C.Os. and sending them into the ranks, then conversely it has been pointed out that most appellants, both conscience and non-conscience, received some form of exemption, and many of those exemptions were the kind the appellants sought. Moreover, rather than acting as extensions of the centralised state and the War Office, the tribunals have been recast as defenders of individual liberties, and spaces where the individual might voice his desire to be exempt from combat in contrast to the dominant patriotic and self-sacrificing discourse of mainstream society.

¹⁰²⁴ Ibid., p. 21.

¹⁰²⁵ Ibid., p. 190.

¹⁰²⁶ Ibid., p. 170.

The purpose of this thesis has been to determine what sort of reputation the Middlesex tribunal system deserves. According to McDermott's overview, the Middlesex Appeal Tribunal deserves a mixed reputation for its severity with conscientious objectors, its fairness with agricultural appeals and its liberal attitudes towards medical cases. He also advances the thesis that the tribunals were autonomous or sovereign bodies, which would include the Middlesex tribunals, though their freedoms were somewhat curtailed towards the end of the War by the Ministry of National Service. However, his study of the Appeal Tribunal provides only a broad outline as it is part of a national study of the tribunals and provides no analysis of the Middlesex tribunal system as a whole. This thesis is the first in-depth, specialised study of all the tribunals in Middlesex, which is surprising when taking into account the relative abundance of sources available to the historian in a field where such materials are very much in short supply. Its concern has been to ask three fundamental questions. First, how efficient were the Middlesex tribunals and to what extent they can be described as individual, autonomous bodies? Second, how far does the Appeal Tribunal deserve a mixed reputation and does this reputation include the local tribunals? Finally, what else can be learned about the Middlesex tribunals beyond the confines of the debate over reputation? To answer these questions, this thesis has evaluated the tribunals from structural, experiential, linguistic and biographical perspectives.

The first conclusion of this thesis is that the Middlesex tribunals were more efficient at dealing with their caseload than the traditional view has suggested. It was certainly not the intention of the Middlesex Appeal Tribunal to be incompetent for advice was sought

from the Central Tribunal and the Surrey Appeal Tribunal before the Appeal Tribunal began its work. Measures were taken by the Appeal Tribunalists to prepare for the challenging workload ahead and additional hearings were conscientiously held to clear backlogs of cases. Administrative errors were made, with some local tribunals more at fault than others, but errors of this sort were hardly fatal to efficiency and were more often the consequence of tribunalists and administrators learning to work the system rather than of inherent ineptitude or lack of care. Regarding McDermott's assertion that the tribunals were sovereign organs, it is true that a distinctive feature of the Middlesex tribunals was their judicial autonomy. The Appeal Tribunal was not legally a supervisory body of the local tribunals and never attempted to act like one. It preferred not to challenge the decisions of the local tribunals unless there was very good reason to do so. However, it is possible to speak of a decentralised tribunal system that consisted of administrative routines that kept the working relationship between the Appeal and local tribunals as smooth as possible. A good example of this was the Appeal Tribunal's expectation that it received from the local tribunals all the relevant documentation relating to an appeal case.

The experience of objection is the experience of not only conscientious objectors, but of all appellants and of the tribunalists too. Chapter three has been written primarily about the Appeal Tribunal because of the nature of the evidence available, but it is possible to gain some understanding of the workload pressures faced by local tribunalists. What proportion of appellants appealed against their local tribunals' decision is not known, so measuring the contentment at local level with a degree of certainty is not possible. 8791 men, however, were not content and appealed. The experience of making an appeal was

born out of the four-way intersection of first, the type of appellant a man was; second, the qualitative features of each phase of exemption; third, the Appeal Tribunal's guiding principle of seeking the national interest; and finally, the Tribunalists' attitudes and personas. Nearly half of all appeals were dismissed, which sounds particularly harsh, but within the context of other tribunals whose case statistics are known reliably, both appeal and local, the Appeal Tribunal was neither generous nor parsimonious. With regards to C.Os., the Appeal Tribunal was among the most severe of Appeal Tribunals for it dismissed 70% of cases. A spectrum of experiences therefore appears: on one end the political absolutists gained nothing from the system and on the other end, those seeking exemption for agricultural reasons and medical reassessment received the most. The majority, who were non-conscience cases, were awarded what most men around the nation received: temporary exemption. In this, the Middlesex Appeal Tribunal adopted the middle course, for it most frequently exempted for three to four months when the minimum was one month and the most was twelve. C.Os. who had been exempted to perform work of national importance were expected to make some sort of sacrifice by working far from home and working manually if they were sedentary workers. They had 21 days in which to find work which the Appeal Tribunal reduced to 14 and once in work, were required to submit a monthly report to prove they were still gainfully employed. There is some evidence to suggest that C.Os. engaged in work of national importance were not welcomed by their fellow workers and Middlesex County Council took the decision not to employ C.Os. after the War's conclusion.

The tribunalists' experiences have been neglected by the historiography. The local tribunalists of Middlesex experienced almost overwhelming caseloads which led the

Appeal Tribunal to adopt strategies to lighten the load. The best source of information about how the Middlesex Appeal Tribunalists experienced their work is Regester's valedictory address of November 1918 which was accepted by the other eleven Tribunalists as an accurate summation. Though not nearly as unpleasant as the experience of an appellant whose appeal had been rejected, or who had been given an exemption that his conscience could not accept, the experiences of the Appeal Tribunalists had, according to Regester, been disagreeable. The Tribunalists had been burdened by the knowledge that they were determining individuals' fates and by the enormous workload which had necessitated long working hours. Clearly, tribunalists could have consciences too. However, Regester declared it all to have been worth it, for this had been the Tribunalists' sacrificial contribution to the war effort. Regester was also proud that the Appeal Tribunalists had played such a decisive role in persuading the Government to appoint civilian doctors to conduct medical examinations.

In terms of discourse, Middlesex's public language reflected the patriotism of the rest of British society. C.Os. were despised and dismissed as non-citizens by the *Middlesex Chronicle*. Both the Appeal and local tribunalists spoke with animosity towards C.Os. with some of the most vehement interrogations conducted by the Heston-Isleworth Local Tribunal. However, the limited extent of the sources means that it is impossible to say that derogatory language was used routinely with C.Os. by all tribunals. As for the language of the C.Os. themselves, their application forms and responses to Form R.81 reveal that most had religious reasons for their application with political and moral objectors constituting a small minority of cases. This fits the national pattern. At the heart of religious discourse was the allegiance to God's commands over the demands of

the state and the view that all human life was sacred. This was the case for all the different Christian sects and denominations that were represented and of the one religious objector on Buddhist grounds, Frank Balls. Political and moral objectors made no appeal to divine command, but upheld the humanist view that human life is special and not to be destroyed by war.

Finally, the case study of Herbert Nield has revealed a man who fits the typical John Bull image: a patriot with a suspicion of foreigners and a dislike of shirkers. He possessed the opinions and attributes of the sort of tribunalist before whom appellants would not wish to appear. He was wholeheartedly committed to the war effort and despised pacifists, foreigners and German prisoners of war. Yet Nield was often to be found on the side of individual liberties. He was among the most vociferous opponents of army medical boards in the Commons and opposed the sending into combat of soldiers under the age of nineteen. He also opposed the extension of the conscription age to 51. Nield also helped to overturn the Government's policy of abolishing the right of appellants to be represented by a solicitor. By presenting the most substantial study of an individual tribunalist, this thesis is inviting other historians to do the same in order to assess the validity of the view that tribunalists were prejudiced reactionaries.

The Middlesex tribunal system and the biography of Nield therefore give credence to both traditional and revisionist interpretations. On the matter of conscience, the Middlesex system deserves its reputation as a harsh collection of tribunals. With regards to non-conscience cases, the Appeal Tribunal's judgments were typical of most tribunals throughout Britain. However, the Middlesex system lends some weight to the

revisionist view, particularly in its championing the cause of misdiagnosed medical cases. The case of Herbert Nield is a warning that for studies of the tribunals to be accurate, more individual studies need to be conducted to avoid simplistic generalisations about their attitudes.

Moreover, the debate between traditionalists and revisionists has dominated the subject of the tribunals, but the subject is richer than this one debate. The tribunals' histories are part of a broader social history for they provide insights into the nature of local economies and the lives of those who sought exemption, in particular, their standards of living, domestic circumstances and health. Their history too is a part also of British wartime cultural history. The 'hard data' of legislation and case decisions is at the heart of this history, but so too is the 'soft data' of the worldviews, 'representations, feelings' and 'emotions'¹⁰²⁷ of both appellants and tribunalists. At the heart of this history also are individuals such as Nield who do not fit easily into the Procrustean bed of generalisations.

The study of the tribunals is set to continue. With the discovery in 2014 that the full set of papers belonging to the Staffordshire Appeal Tribunal had escaped destruction at the hands of the Ministry of Health,¹⁰²⁸ historians of the tribunals have further opportunities to examine a particular appeal tribunal at work. What the Staffordshire sources will reveal remains to be seen. For the time being, a division between traditional and revisionist interpretations remains the dominant feature of the historiography. This thesis is part of that process of re-thinking the reputation of Middlesex and its

¹⁰²⁷ Ibid., p. 29.

¹⁰²⁸ Hunt, *Staffordshire's War*, p. 7,

tribunalists. It also locates the history of the appellants within the cultural paradigm through an analysis of their experiences and discourses. Binary oppositions of interpretation and the triangular conflict between tribunalists, appellants and the military have characterised our journey so far, but it is possible to finish with a point of unity. What unites the tribunalists and the appellants is a civilian sense of social contract in which fairness ought to determine the rules of the game. Though many on both sides would regard the other as failing in their obligation to be fair and though tribunalists and appellants often had different notions of what was fair, the fact that the tribunals did not sit in the interest of the military and appellants had the state-given opportunity to make the claim that they had higher priorities than military duty suggests that Prussianism had not won after all.

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